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VETERANS' HOME LOAN PROGRAM
IMPROVEMENTS ACT OF 1987

REPORT

OF THE

COMMITTEE ON VETERANS' AFFAIRS

UNITED STATES SENATE

TO ACCOMPANY

S. 1801



OCTOBER 21 (legislative day, OCTOBER 16), 1987.—Ordered to be printed

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VETERANS' HOME LOAN PROGRAM IMPROVEMENTS ACT
OF 1987

OCTOBER 21 (legislative day, OCTOBER 16), 1987.—Ordered to be printed

Mr. CRANSTON, from the Committee on Veterans' Affairs,
submitted the following

REPORT

[To accompany S. 1801]

The Committee on Veterans' Affairs, to which was referred the bill (S. 1801) to amend title 38, United States Code, to increase the maximum Veterans' Administration home loan guaranty, reduce Veterans' Administration-guaranteed loan defaults and foreclosures, and make other improvements in the Veterans' Administration home loan program, and for other purposes, having considered the same reports favorably thereon without amendment and recommends that the bill do pass.

COMMITTEE BILL

The text of the bill being reported is as follows:

SEC. 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Home Loan Program Improvements Act of 1987".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. LOAN PROGRAMS GENERALLY.

(a) INCREASE IN MAXIMUM GUARANTY.—(1)(A) Section 1810(c) is amended by striking out "\$27,500" and inserting in lieu thereof "\$36,000".

(B) Section 1811(d)(2)(A) is amended by striking out "\$27,500" both places it appears and inserting in lieu thereof "\$36,000".

(2) The amendments made by paragraph (1) shall be effective for a fiscal year only to such extent as is or in such amounts as are provided in appropriation Acts.

(b) EXEMPTION OF LOANS.—Section 113 is amended—

(1) in subsection (a), by adding at the end the following new clause:

"(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans."; and

(2)(A) by striking out subsection (e); and

(B) by redesignating subsections (f) and (g) as (e) and (f), respectively.

SEC. 3. REFINANCING HOME LOANS.

(a) CERTAIN LOANS GUARANTEED OR INSURED BY THE VETERANS' ADMINISTRATION.—Section 1810(e)(1) is amended—

(1) in clause (B), by striking out "and such" and all that follows through "home"; and

(2) by amending clause (E) to read as follows:

"(E) the veteran must own the dwelling for farm residence securing the loan and—

"(i) must occupy such dwelling or residence as such veteran's home; or

"(ii) must have previously occupied such dwelling or residence as such veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied such dwelling or residence.".

(b) OTHER LOANS.—Section 1810 is amended by adding at the end the following new subsection:

"(h) The amount of a loan guaranteed for the purpose specified in subsection (a)(5) may not exceed the amount equal to 90 percent of the appraised value of the dwelling or farm residence which will secure the loan, as determined by the Administrator."

(c) MANUFACTURED HOUSING LOANS.—Section 1819(a)(4)(A) is amended—

(1) in clause (ii), by striking out "and such" and all that follows through "veteran's home";

(2) in clause (v), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clause:

"(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

"(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan; or

"(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied the home (or such a home on the lot)."

SEC. 4. DETERMINATION OF MINIMUM RESIDUAL INCOME.

Paragraph (3) of section 1810(g) is amended by adding at the end the following new sentence:

"Where the procedures described in clause (C) of this paragraph include standards for evaluating residual income, those standards shall be based on State statistics pertaining to residual income and cost of living in the State in question rather than in a larger region if the Administrator finds that there are reliable such data available for a particular State."

SEC. 5. FINANCIAL COUNSELING ASSISTANCE.

(a) ASSISTANCE TO VETERANS.—Section 1816(a) is amended by adding at the end the following new paragraph:

"(4)(A) Within a reasonable time after receiving a notice pursuant to paragraph

(1) of this subsection, the Administrator shall—

"(i) provide the veteran with information and, to the extent feasible, counseling regarding—

"(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Administrator by means of a deed in lieu of foreclosure, and the actions authorized by section 1816(a)(2) of this title; and

"(II) what the Veterans' Administration's and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

"(ii) advise the veteran regarding the availability of such counseling.

"(B) The Administrator, subject to the availability of appropriations and funds made available pursuant to section 1824(e) of this title, shall take such steps as are

necessary to ensure that sufficient personnel are available for the effective implementation of this paragraph."

(b) **TERMINATION DATE.**—The amendment made by subsection (a) shall terminate on December 31, 1989.

SEC. 6. LIQUIDATION OF LOANS IN DEFAULT.

(a) **DETERMINATION OF TOTAL INDEBTEDNESS.**—Section 1816(c) is amended—

(1) in paragraph (1)(D)—

(A) in clause (ii), by striking out "of the liquidation sale" and all that follows in such clause and inserting in lieu thereof "applicable under paragraph (10) of this subsection, and"; and

(B) in clause (iii), by striking out "such regulations" and inserting in lieu thereof "regulations prescribed by the Administrator to implement this subsection"; and

(2) by adding at the end the following new paragraphs:

"(10)(A) Except as provided in subparagraph (B) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan.

"(B)(i) Except as provided in subdivision (II) of this division, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forbearance at the request of the Administrator, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forbearance was requested and prior to the date of such sale, as the Administrator specifies pursuant to regulations prescribed by the Administrator to implement this subsection.

"(II) The Administrator may specify a date under subdivision (I) of this division only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Administrator is authorized, under paragraph (7)(A) of this subsection, to accept conveyance of the property.

"(ii) In any case, other than a case described in division (i) of this subparagraph, in which there is a delay in such sale beyond a reasonable period of time for such sale to occur, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such earlier date on or after the date on which such period expires as the Administrator may specify pursuant to such regulations.

"(11) This subsection shall cease to have effect on October 1, 1988."

(b) **REPEAL OF TERMINATION DATES OF PROVISIONS FOR DETERMINING WHETHER THE VETERANS' ADMINISTRATION ACQUIRES PROPERTIES AT LIQUIDATION SALES AND THE PROPORTION OF ACQUIRED PROPERTIES SOLD FOR CASH.**—Paragraph (2) of section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369) is repealed.

SEC. 7. DOWNPAYMENT AND LOAN FEE REQUIREMENTS FOR VENDEE LOANS.

(a) **DOWNPAYMENT.**—Section 1816(d) is amended by adding at the end the following new paragraph:

"(4) The amount of a loan made by the Administrator to finance the purchase of real property from the Administrator described in paragraph (1) of this subsection may not exceed an amount equal to 90 percent of the purchase price of such real property."

(b) **LOAN FEE.**—The second sentence of section 1829(a) is amended by inserting ", except that, in the case of a loan made by the Administrator to finance the purchase of real property from the Administrator, the amount of the fee shall be 2.5 percent of the total loan amount" after "loan amount".

SEC. 8. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) **INCREASED CASH SALES PROPORTION.**—Section 1816(d)(1) is amended—

(1) by striking out "75 percent, nor less than 60 percent" and inserting in lieu thereof "60 percent, nor less than 40 percent"; and

(2) by striking out "80 percent" and inserting in lieu thereof "70 percent".

(b) **EXTENSION OF TERMINATION DATE OF PROVISIONS PRESCRIBING CASH SALES PROPORTIONS.**—Section 1816(d) is amended by adding at the end the following new paragraph:

"(5) This subsection shall cease to have effect on October 1, 1990."

SEC. 9. VOLUNTARY DEEDS IN LIEU OF FORECLOSURE.

(a) **IN GENERAL.**—Section 1816 is amended by adding at the end the following new subsection:

"(g)(1) Except as provided in paragraph (2) of this subsection, if, in the case of a loan which was guaranteed, insured, or made under this chapter and is in default, the Administrator refuses to accept from the veteran who is obligated under the loan a timely and voluntary offer to convey the property securing the loan to the

Administrator by means of a deed in lieu of foreclosure and without release from such veterans' liability to the United States in connection with such loan, the Administrator may not include in the amount of such veterans' liability in connection with the loan the cost of a foreclosure proceeding.

"(2) For the purposes of subsection (c) of this section a veteran's voluntary conveyance shall be deemed a liquidation sale, and paragraph (1) of this subsection shall not apply in any case in which the Administrator would not be permitted under such subsection to accept conveyance of the property.

"(3) Notwithstanding any provision of other law, a veteran's voluntary conveyance of the property securing a loan guaranteed, insured, or made under this chapter by means of a deed in lieu of foreclosure to the Administrator or to the holder of the loan shall, at the written request of the veteran to the Administrator, not release such veteran from any liability to the Administrator."

(b) CONFORMING AMENDMENTS.—Section 1802(a)(2)(B) is amended by inserting "(as such indebtedness may have been reduced under section 1816(g)(1) of this title)" after "United States".

SEC. 10. CREDITWORTHINESS DETERMINATION IN CASE OF ASSUMPTION OF LOAN.

(a) CREDIT INVESTIGATIONS.—Section 1817 is amended by adding at the end the following new subsections:

"(c)(1) No guaranteed, insured, or direct housing loan obtained by a veteran under this chapter may be assumed unless, prior to the veteran's disposing of the property securing such loan and the assumption of the loan, the veteran notifies the holder of the loan in writing of the proposed assumption and the acceptability of the assumption is established under paragraph (2)(A) or (B) of this subsection.

"(2) The acceptability of the assumption shall be considered to be established if—

"(A) upon application made by the veteran and the transferee, the criteria under clauses (1) and (2) of subsection (a) of this section are determined by the Administrator to be satisfied, or

"(B)(i) the veteran has elected, after full disclosure by the Administrator or the holder to the veteran regarding the veteran's rights and liabilities, to be made jointly and severally liable with the transferee, and

"(ii) the transferee is obligated by contract to purchase the property securing such loan and to assume joint and several liability with the veteran for the repayment of the balance of the loan remaining unpaid and for all of the obligations of the veteran under the terms of the instruments creating and securing the loan.

"(d) If the acceptability of an assumption is established under subsection (c)(2)(A) of this section, the veteran shall be relieved of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or of any subsequent purchaser of such property) unless the Administrator determines that such release would not be in the interest of the solvency or stability of the Loan Guaranty Revolving Fund and so notifies the veteran promptly.

"(e) If, pursuant to subsection (c)(2)(B) of this section, a veteran becomes jointly and severally liable with an assumptor of a loan, the veteran shall, at the end of the 5-year period beginning on the date of the sale, be relieved of all further liability to the Administrator on account of the loan (including liability for any loss resulting from any default of the transferee or of any subsequent purchaser of such property) unless, as of the last day of such period, suit or foreclosure has been initiated and not dismissed or withdrawn.

"(f) In the case of a sale of the property securing a guaranteed, insured, or direct housing loan obtained by a veteran under this chapter, unless the acceptability of an assumption is established under subsection (c)(2) of this section, payment in full of the principal, interest, and all other amounts owing under the terms of the loan shall upon demand of the holder be immediately due and payable to the holder at any time beginning on the date of transfer of title by the veteran.

"(g) The Administrator, or an approved lender described in section 1802 of this title in the case of such lender, shall, upon notification by the veteran pursuant to subsection (c)(1) of this section, provide to the veteran a written explanation, in such form as the Administrator shall specify, of the veteran's rights and liabilities, including the veteran's right to elect one of the alternatives described in subsection (c)(2)(A) or (B) of this section.

"(h) If a veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter and the veteran fails to notify the holder of the loan before the property is disposed of, payment in full of the principal, interest, and all other amounts owing under the terms of the

loan shall upon demand of the holder be immediately due and payable to the holder at any time beginning on the date of the transfer of title by the veteran.

"(i)(1) In any case in which the holder of a loan described in subsection (c)(1) of this section has knowledge of a veteran's transfer of title of residential property securing such loan, the holder shall immediately notify the Administrator of such transfer.

"(2) If a holder with such knowledge fails to so notify the Administrator, the holder shall be liable to the Administrator for any damage, as determined by the Administrator at the time at which the Administrator is required to make payments in accordance with any guaranty, insurance, or recourse provided with respect to the loan concerned, sustained by the United States as a result of such failure.

"(j) The Administrator shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a veteran with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Administrator shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2½ times larger than the regular type on such page: "THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE VETERANS' ADMINISTRATION OR ITS AUTHORIZED AGENT."

(b) PROTECTION AGAINST TRANSFERS TO PERSONS NOT CREDITWORTHY.—Section 1804 is amended by adding at the end the following new subsection:

"(f) Any loan for the purchase or construction of residential property to be financed through the assistance of this chapter shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to section 1817(c) of this title."

(c) LOAN FEE.—Section 1829 is amended by adding at the end the following new subsections:

"(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan in connection with a disposition of residential property referred to in section 1817 of this title. The amount of the fee shall be equal to one-half percent of the balance of such loan on the date of the transfer of the property.

"(e) The Administrator shall establish in regulations—

"(1) a reasonable amount as the Maximum amount that a lender may charge for processing an application for—

"(A) a creditworthiness determination and assumption of a loan pursuant to subsection (c)(2)(A) of section 1817 of this title, which amount shall not exceed \$500; and

"(B) an assumption of a loan pursuant to subsection (c)(2)(B) of such section 1817, which amount shall include only reimbursement for expenses incurred by the lender in such processing and shall not exceed \$50; and

"(2) requirements for the timely processing of applications for acceptance of assumptions."

SEC. 11. DOWNPAYMENT REQUIREMENT FOR PURCHASES OF MANUFACTURED HOMES.

Section 1819(e)(4) is amended by inserting "the lesser of the amount equal to 95 percent of the purchase price of the property which shall secure such loan or" after "in excess of".

SEC. 12. AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND.

(a) IN GENERAL.—Section 1824 is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (b) of this section, the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts, may contract for the performance of such supplementary services described in paragraph (2) of this subsection and may acquire such supplementary equipment described in such paragraph (not including services or equipment for which the Fund is available under subsection (b) of this section) as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

"(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1987, or services in excess of the level of such services performed during fiscal year 1987, and may include, among other things, the services of—

"(A) appraisers to review appraisal reports and issue certificates of reasonable value:

"(B) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

"(C) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

"(D) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

"(E) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certificates;

"(F) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter; and

"(G) contractors to prepare closing documents and review them after closing.

"(3) The Administrator shall have available for a fiscal year for the purposes of this subsection such funds as are obtained during such fiscal year by requiring, pursuant to section 1829(d) of this title, payment of a fee by buyers who assume loans guaranteed, insured, or made under this chapter and, pursuant to section 1829(a) of this title, payment of a fee greater than 1 percent by persons obtaining loans to finance the purchase of real property from the Administrator, plus in fiscal years 1988 and 1989 an additional \$2 million, but not exceeding a total of \$15 million in any fiscal year."

SEC. 13. EXTENSION OF LOAN FEE.

Section 1829(c) is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 14. LENDER REVIEW OF APPRAISALS.

(a) IN GENERAL.—Section 1831 is amended—

(1) in subsection (c), by striking out "The Administrator shall, upon request," and inserting in lieu thereof, "Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall";

(2) subsection (d), by inserting "(other than a lender described in subsection (f) of this section)" after "lender"; and

(3) by adding at the end the following new subsection:

"(f)(1) Subject to the provisions of paragraph (2) of this subsection, the Administrator may, in accordance with standards and procedures established in regulations prescribed by the Administrator, authorize a lender which is authorized to make loans which are automatically guaranteed under section 1802(d) of this title to determine the reasonable value of property for the purposes of this chapter. In such a case, the appraiser selected by the Administrator pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Administrator.

"(2) Prior to the Administrator exercising the authority provided in paragraph (1) of this subsection, the Administrator shall establish an appraisal-review system to monitor on at least a random-sampling basis the making of appraisals by appraisers and the determination of reasonable value of property by lenders. Such monitoring shall be performed by contract personnel paid for from the Loan Guaranty Revolving Fund as provided for in section 1824(e) of this title."

(b) CONFORMING AMENDMENT.—Section 1810(b) is amended—

(1) in paragraph (5), by striking out "by the Administrator" and inserting in lieu thereof "pursuant to section 1831 of this title"; and

(2) by striking out the final sentence.

(c) TERMINATION DATE.—The amendments made by subsections (a) and (b) shall terminate on September 30, 1989.

SEC. 15. MARKETING VETERANS' ADMINISTRATION-ACQUIRED PROPERTIES.

Section 1832 is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter, the Administrator shall

list all such property with real estate brokers under such arrangements as the Administrator determines to be most appropriate and cost effective."

SEC. 16. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as provided in subsection (b), the provisions of and amendments made by this part shall take effect on the date of the enactment of this Act.

(b) **EXCEPTIONS.**—(1) The amendments made by section 2(b) shall take effect on November 19, 1987.

(2) The amendments made by section 3 shall apply with respect to loans for which applications are made more than 30 days after the date of the enactment of this Act.

(3) The amendment made by section 5(a) shall take effect on January 1, 1988.

(4) The amendments made by section 6(a) shall apply to defaults which occur more than 30 days after the date of the enactment of this Act.

(5) The amendments made by section 7 shall apply with respect to loans made more than 30 days after the date of the enactment of this Act.

(6) The amendments made by section 8(a) shall take effect as of October 1, 1987.

(7) The amendments made by section 9 shall apply with respect to defaults occurring after the date of the enactment of this Act.

(8) The amendments made by section 10 shall apply with respect to loans made more than 180 days after the date of the enactment of this Act.

(9) The amendment made by section 11 shall apply to loans for which guaranty commitments are issued more than 60 days after the date of the enactment of this Act.

INTRODUCTION

S. 1801 was introduced on October 16, 1987, by the Chairman of the Committee, Senator Alan Cranston, for himself and for the Ranking Committee Member, Senator Frank H. Murkowski, and Committee Members Spark M. Matsunaga, Dennis DeConcini, George J. Mitchell, and Bob Graham —————. S. 1801 is derived from provisions contained in S. 9, as ordered reported by the Committee on July 31, 1987, and S. 920.

S. 9 was introduced on January 6, 1987, by Senator Cranston, for himself and Committee Members Matsunaga, Mitchell, John D. Rockefeller, IV, and Graham, and Senator Frank Lautenberg. With respect to the Veterans' Administration home loan guaranty program, S. 9 as introduced, first, would have increased the maximum VA home loan guaranty amount from \$27,500 to \$36,000 and, second, would have provided a permanent exemption from sequestration for the VA home loan program.

S. 920 was introduced by Senator Cranston by request of the Administration on March 30, 1987. As introduced, S. 920, first, would have eliminated the Administrator's authority to set the maximum interest rate on VA-guaranteed loans; second, would have required that VA-guaranteed loans bear the same interest rate for the life of the loan; third, would have increased the 1-percent fee on VA-guaranteed loans to 2.5 percent and made the fee permanent; fourth, would have increased the maximum VA loan guaranty from \$27,500 to \$27,915 where the veteran pays the full amount of the loan fee from the proceeds of the loan; fifth, would have authorized direct appropriations to the Loan Guaranty Revolving Fund (LGRF); sixth, would have eliminated the requirement that VA standards for manufactured homes include requirements to encourage the development of attractive residential areas; seventh, would have repealed the requirement that the VA inspect the manufacturing process of manufactured homes and conduct on-site inspec-

tions of such units purchased with VA financing; eighth, would have authorized the Administrator to suspend from participation in the VA program a manufacturer of manufactured homes who engaged in practices prejudicial to veterans or to the Government; ninth, would have repealed the requirement for a statement of local officials regarding the feasibility of public or community water and sewerage systems as a condition to the VA guaranty of loans for the purchase of newly-constructed homes; tenth, would have authorized lender review of appraisals completed by VA-designated fee appraisers; eleventh, would have made permanent the statutory formula for determining whether or not the VA acquires at the liquidation sale the property securing a VA-guaranteed loan; and, twelfth, would have revised and made permanent the statutory provision specifying the proportion of acquired foreclosed properties which the VA is required to sell on a cash rather than vendee-loan basis.

On June 17, 1987, the Committee held a hearing to receive testimony on certain legislation, including S. 9 (limited to those provisions relating to the VA home loan guaranty program), S. 920, and H. Con. Res. 79 and other issues pertaining to the VA home loan guaranty program. Testimony was received from Veterans' Administration Chief Benefits Director R. John Vogel; Mr. Thomas M. French, Jr., President of the Mortgage Bankers Association of America; Mr. John Koelemij, Past President of the National Association of Home Builders; Ms. Jennie L. Stabile, Vice Chair of the Real Estate Finance Committee for the National Association of Realtors; and representatives of The American Legion, the Disabled American Veterans, the Non Commissioned Officers Association, the Paralyzed Veterans of America, and the Veterans of Foreign Wars.

After carefully reviewing the testimony from the hearing, the Committee met in open session on July 31, 1987. At that meeting, Senators Cranston and Murkowski introduced provisions—derived in part from S. 9 and S. 920—which, with respect to the VA home loan guaranty program, first, would increase the maximum VA home loan guaranty amount from \$27,500 to \$36,000; second, would provide a permanent exemption from sequestration for the VA home loan guaranty program; third, would eliminate the occupancy restriction on the refinancing of VA conventional and manufactured housing loans for the purpose of obtaining interest-rate reductions by providing that the veteran either occupy the home or certify that he or she had previously occupied it; fourth, would eliminate the restriction limiting the term of an interest-rate-reduction refinancing conventional housing loans to the remaining term of the loan being refinanced; fifth, would limit the amount of refinancing loans for the purposes of obtaining cash for equity to 90 percent of the appraised property value; sixth, would require the VA, when possible, to use state rather than regional statistics in evaluating residual minimum income for purposes of underwriting criteria applicable to VA-guaranteed loans; seventh, would, for a 2-year trial period, require the VA, after receipt of a 90-day default notice from the lender, to furnish the veteran with information regarding alternatives procedures to foreclosure appropriate in light of the veteran's particular circumstances and regarding the veter-

an's and the VA's liabilities and, to the extent feasible, counseling; eighth, would extend for one year, until September 30, 1988, the provisions establishing the circumstances under which the VA either acquires the property securing a VA-guaranteed loan at the liquidation sale or pays the lender under the guaranty, and revise those provisions to exclude interest accrued during any period of forbearance which has been requested by the VA from property acquisition costs and, if the VA acquires the property, from the payment to the lender; ninth, would increase from 1 to 2.5 percent the fee on vendee loans made to purchasers of VA-acquired foreclosed properties and require a 10-percent downpayment on all vendee loans; tenth, would require the VA, during fiscal years 1988, 1989, and 1990, generally to sell on a cash basis not less than 40 percent nor more than 60 percent of the foreclosed properties which it acquires, but permit the Administrator to sell up to 70 percent of such properties on a vendee-loan basis when selling more than 60 percent on that basis is necessary for the effective functioning of the LGRF; eleventh, would exclude foreclosure costs from the veteran's liability if the veteran offered timely to convey the property to the VA by means of a deed in lieu of foreclosure without being released from his or her debt to the VA, the VA refused the voluntary conveyance, and the VA ultimately acquired the property by means of foreclosure; twelfth, would override state statutes eliminating the mortgagor's remaining indebtedness after a non-judicial foreclosure to the extent necessary to preserve the veteran's remaining debt to the VA after the deed is accepted in those cases where the veteran has offered to convey the property to the VA by means of a voluntary deed in lieu of foreclosure and has agreed to remain liable for any remaining debt after VA acceptance of the deed; thirteenth, (a) would require, before a VA-guaranteed loan may be assumed by a buyer of the home, that the VA or approved lender conduct a credit check on the buyer, using the same standards as are used to evaluate the creditworthiness of a veteran applying for a guaranteed loan, and if the buyer is found creditworthy, that the veteran automatically be released from liability to the VA (unless the Administrator determines this would not be in the interest of the solvency or stability of the LGRF), (b) would provide, alternatively, that (i) the veteran and the buyer could request that, instead of the credit check, the veteran and the buyer be made jointly and severally liable for the loan, (ii) the veteran would be released from liability if after 5 years a foreclosure proceeding had not been initiated, (iii) the VA or approved lender would be required to explain this alternative to the veteran before a credit check could be instituted, and (iv) the veteran would have to certify that he or she was so advised, and (c) would require the Administrator to establish (i) reasonable limits on the fee a lender may charge for performing a credit check (\$500 maximum) or a buyer assuming a VA loan and for processing an application for an assumption where the veteran retains liability and no credit check is performed (expenses up to \$50) and (ii) requirements for the timely processing of applications for acceptance of assumptions; fourteenth, would impose on a buyer assuming a VA loan a fee equal to 0.5 percent of the loan balance, for deposit in the LGRF; fifteenth, would require a 5-percent down payment on VA-guaranteed manu-

factured home loans; sixteenth, would expand the VA's authority to pay from the LGRF certain loan guaranty program administrative expenses to include supplementary contractual services and equipment not otherwise authorized to be paid for from the LGRF when the Administrator makes a finding that doing so would be in the best interest of the long-term stability and solvency of the LGRF, despite the unavailability of regular appropriations, and provide that, in each fiscal year, there would be available for such contracting the additional amounts collected as a result of increasing from 1 to 2.5 percent the fee on vendee loans and imposing a 0.5 percent fee on assumptions (as proposed by the provisions described in the ninth and fourteenth items, above, respectively), plus \$2 million in fiscal years 1988 and 1989, but not to exceed a total of \$15 million in any fiscal year; seventeenth, would extend the 1-percent VA loan guaranty fee for 2 years, through September 30, 1989; eighteenth, would, for a 2-year trial period, provide for direct appraisals in the case of approved lenders, provided the VA establishes, through the new authority (proposed in the provisions described in the sixteenth item, above) to contract for services out of the LGRF, an appraisal-review-monitoring system on at least a spot-check basis; and, nineteenth, would require the VA to list all of its acquired foreclosed properties with real estate brokers under arrangements designed to facilitate the most expeditious sale at the highest possible price.

The Committee voted to report S. 9 favorably to the Senate with an amendment in the nature of a substitute incorporating in part C of title I of S. 9 provisions pertaining to the home loan guaranty program derived from the amendment which Senators Cranston and Murkowski proposed. S. 9 as reported also contained provisions relating to other VA benefits and services programs.

On October 16, 1987, the Committee voted to introduce as a separate bill and report favorably to the Senate the provisions pertaining to the home loan guaranty program contained in part C of title I of S. 9.

SUMMARY OF S. 1801 AS REPORTED

S. 1801 reported (hereinafter referred to as the "Committee bill") contains amendments to chapters 1 and 37 of title 38, United States Code, which would:

1. Increase the maximum VA home loan guaranty amount by 31 percent, from \$27,500 to \$36,000 (section 2(a)).
2. Provide a permanent exemption from sequestration for the VA home loan program (section 2(b)).
3. Eliminate the occupancy restriction on the refinancing of VA loans for the purpose of obtaining interest-rate reductions by providing that the veteran either occupy the home or certify that he or she had previously occupied it (section 3(a)).
4. Eliminate the restriction limiting the term of an interest-rate-reduction refinancing conventional housing loan to the remaining term of the loan being refinanced (section 3(a)).
5. Limit the amount of refinancing loans for the purpose of obtaining cash for equity to 90 percent of the appraised property value (section 3(b)).

6. Require the VA, when possible, to use state rather than regional statistics in evaluating residual minimum income for purposes of underwriting criteria applicable to VA-guaranteed loans (section 4).

7. For a 2-year trial period, require the VA, after receipt of a 90-day default from the lender, to furnish the veteran with information regarding alternative procedures to foreclosure that are appropriate in light of the veteran's particular circumstances and regarding the veteran's and the VA's liabilities and, to the extent feasible, counseling (section 5).

8. Extend for one year, until September 30, 1988, the provisions establishing the circumstances under which the VA either acquires a property at the liquidation sale or simply pays the lender under the guaranty, and revise those provisions to exclude interest accrued during any period of forbearance which has been requested by the VA from property acquisition costs and, if the VA acquires the property, from the payment to the lender (section 6).

9. Increase from 1 to 2.5 percent the fee on vendee loans made to purchasers of VA-acquired foreclosed properties and require a 10-percent downpayment on all vendee loans (section 7).

10. Require the VA, during fiscal years 1988, 1989, and 1990, generally to sell on a cash basis not less than 40 percent nor more than 60 percent of the foreclosed properties which it acquires, but permit the Administrator to sell up to 70 percent of such properties on a vendee-loan basis when selling more than 60 percent on that basis is necessary for the effective functioning of the Loan Guaranty Revolving Fund (LGRF) (section 8).

11. Exclude foreclosure costs from the veteran's liability if the veteran timely offered to convey the property to the VA by means of a deed in lieu of foreclosure without being released from his or her debt to the VA, the VA refused the voluntary conveyance, and the VA ultimately acquired the property by means of foreclosure (section 9).

12. Override state statutes eliminating the mortgagor's remaining indebtedness after a non-judicial foreclosure to the extent necessary to preserve the veteran's remaining debt to the VA after the deed is accepted in those cases where the veteran has offered to convey the property to the VA by means of a voluntary deed in lieu of foreclosure and has agreed to remain liable for any remaining debt after VA acceptance of the deed (section 9).

13. A. Require, before a VA-guaranteed loan may be assumed by a buyer of the home, that the VA or approved lender conduct a credit check on the buyer, using the same standards as are used to evaluate the creditworthiness of a veteran applying for a guaranteed loan, and if the buyer is found creditworthy, that the veteran automatically be released from liability to the VA (unless the Administrator determines this would not be in the interest of the solvency or stability of the LGRF) (section 10 (a) and (b)).

B. Provide, alternatively, that (1) the veteran and the buyer could request that, instead of the credit check, the veteran and the buyer be made jointly and severally liable for the loan, (2) the veteran would be released from liability after 5 years unless a foreclosure proceeding had been initiated and not dismissed or withdrawn, (3) the VA or approved lender would be required to explain

this alternative to the veteran before a credit check could be instituted, and (4) the veteran would have to certify that he or she was so advised (section 10(a) and (b)).

14. Impose on a buyer assuming a VA loan a fee equal to 0.5 percent of the loan balance, for deposit in the LGRF (section 10(c)).

15. Require the Administrator to establish (a) reasonable limits on the fee a lender may charge for performing a credit check (\$500 maximum) on a buyer assuming a VA loan and for processing an application for an assumption where the veteran retains liability and no credit check is performed (expenses up to \$50), and (b) requirements for the timely processing of applications for acceptance of assumptions (section 10(c)).

16. Require a 5-percent down payment on VA-guaranteed manufactured home loans (section 11).

17. Expand the VA's authority to pay from the LGRF certain loan guaranty program administrative expenses to include supplementary contractual services and equipment not otherwise authorized to be paid for out of the LGRF when the Administrator makes a finding that that would be in the best interest of the long-term stability and solvency of the LGRF, despite the unavailability of regular appropriations; and provide that, in each fiscal year, there would be available for such contracting the additional amounts collected as a result of increasing from 1 to 2.5 percent the fee on vendee loans and imposing a 0.5 percent fee on assumptions (as proposed by the provisions described in items 9 and 14, above, respectively) plus \$2 million in fiscal years 1988 and 1989, but not to exceed a total of \$15 million in any fiscal year (section 12).

18. Extend the 1-percent VA loan guaranty fee for 2 years, through September 30, 1989 (section 13).

19. For a 2-year trial period, provide for direct appraisals in the case of approved lenders, provided the VA establishes, through the new authority (proposed in the provisions described in item 17, above) to contract for services out of the LGRF, an appraisal-review-monitoring system on at least a spot-check basis (section 14).

20. Require the VA to list all of its acquired foreclosed properties with real estate brokers under arrangements designed to facilitate the most expeditious sale at the highest possible price (section 15).

DISCUSSION

BACKGROUND

The VA home loan guaranty program, established by the Servicemen's Readjustment Act of 1944 (Public No. 346, 78th Congress), was designed to assist veterans returning home from World War II who, due to their military service, had been unable to establish a credit history necessary to obtain a home mortgage. Under that Act, a veteran with at least 90 days of active-duty service was eligible for a VA home loan guaranty of up to 50 percent of the principal value of the mortgage, not to exceed \$2,000.

Under the 1944 Act, the program was to expire 5 years after the end of World War II. However, due to its great popularity and success, the program was extended a number of times until it was made a permanent benefits program in 1970 by Public Law 91-506.

It is currently codified in subchapters I through III of chapter 37 of title 38, United States Code.

Since its inception in 1944, the program has been changed and expanded many times. A mortgage can now be obtained for up to a term of 30 years with a VA guaranty up to a maximum of 60 percent of the principal, not to exceed \$27,500. The maximum interest rate on VA loans is not set in statute but, rather, the law directs the Administrator to adjust the rate periodically to meet the demands of the loan market. Today, both veterans and certain active-duty military personnel are eligible for the program. These changes have enabled many more veterans and service persons to own their own homes.

The home loan guaranty program has guaranteed loans totaling more than \$270 billion, helping more than 12 million veterans purchase homes. In fiscal year 1986, the VA guaranteed 351,242 home loans totaling a record \$21.9 billion and issued commitments to guarantee loans totaling another \$12.4 billion. This represented a significant increase over fiscal year 1985, when the VA guaranteed \$11.45 billion in loans, representing 178,931 loans.

The loan guaranty program is financed primarily through the Loan Guaranty Revolving Fund (LGRF), which funds the payment of guaranties, the acquisition of foreclosed properties, and certain administrative expenses of the loan guaranty program. LGRF receipts are derived from a one-percent fee charged to veterans and service persons (other than those with compensable service-connected disabilities or surviving spouses of veterans and service persons who died from a service-connected disability using their "entitlements" and to persons receiving direct VA loans (known as "vendee loans") to finance their purchase of properties acquired by the VA upon liquidation sales, the sale of foreclosed properties, transfers from the Direct Loan Revolving Fund, and appropriations.

Traditionally, for the vast majority of VA-guaranteed loans the cost to the Government of providing the guaranty has been quite small and the benefit to veterans and to society quite significant. Through fiscal year 1986, 7.5 million guaranteed loans, totaling \$102.7 billion, have been paid in full. From its inception in 1944 until 1961, the home loan guaranty program was funded through appropriations to the VA's readjustment benefits account, which totalled only \$730 million—an average of \$42.9 million per year for the 5,628,091 loans made during those 17 years. In 1962, the LGRF was established for the dual purposes of paying program costs and receiving program revenues.

More recently, however, high default and foreclosure rates on properties guaranteed by VA loans coupled with a large VA inventory of foreclosed homes acquired at liquidation sales has threatened the viability of the program. In many cases, the cost to the VA of acquiring, managing, and reselling the properties involved has exceeded the income realized by the VA through property sales. As a result, the LGRF has incurred significant deficits requiring an infusion of funds from various sources. In only 6 of the years since 1962 has the LGRF operated at a surplus. In the other 11 years, infusions of additional funds were necessary.

The rise in the number of foreclosures in recent years has focused increased attention on what the VA can and should do to prevent veterans' defaults. The default rate on VA-guaranteed loans while still relatively low, rose from fiscal year 1985 to fiscal year 1986 by 13.2 percent—from 2.7 percent to 3 percent—and the number of claims paid by the VA on foreclosed properties increased 14.4 percent, from 30,277 to 34,622. The VA's inventory of such properties increased by nearly 2,000 properties in fiscal year 1986. According to the General Accounting Office (GAO), the total cost to the VA of payment of guaranties and acquisition of properties rose from approximately \$290 million in fiscal year 1984 to approximately \$575 million in fiscal year 1986.

On a more encouraging note, the number of foreclosed properties sold by the VA in fiscal year 1986 increased by 31.7 percent over fiscal year 1984. Additionally, recent VA statistics indicate that the VA's average loss per acquired property—from either paying the guaranty or acquiring the property and reselling it at a net loss—declined from approximately \$15,000 in fiscal year 1985; however, the VA still lost approximately \$14,000 per property in fiscal year 1986. Those losses were absorbed through the LGRF.

The Committee notes that it is not realistic to expect that a benefits program will incur no costs. Certainly, however, when the cost of such a program increases significantly, it is essential for the Congress to take a close look to determine the reasons for the increase and to take steps to minimize program costs. The Committee strongly believes, however, that that does not mean changing the fundamental nature of the loan guaranty program by either drastically curtailing it or insisting that it must be paid for in full by those seeking to use it.

There are a number of factors which have contributed to the high rate of foreclosures and the ensuing greater losses under the VA loan guaranty program. Some are factors over which the VA has no control. Thus, the Committee recognizes that general economic conditions in particular areas of the country, which clearly are beyond the control of the VA, have played a large role in the increase in defaults. High unemployment rates in certain economically-depressed areas and the stabilization and even decline, in some areas, in the housing market have also contributed to the increased number of foreclosures. Indeed, three regional offices—Denver, Muskogee, and Houston—now account for 29 percent of the VA's inventory of foreclosed properties.

The VA can, however, have some impact on certain other factors which are contributing to the increasing losses the program is suffering. For example, overestimates in appraisals result in the VA providing—and paying—guaranties based on selling prices that are in excess of fair market value. Delays in the foreclosure process result in the accrual of additional interest on the guaranteed loan, thereby increasing both the VA's debt to the lender and the veteran's debt to the VA. Inadequate servicing of loans when the veteran is in default appears to have resulted in defaults that might have been curable resulting in foreclosures instead.

Indeed, the Congress and the VA have taken steps to address some of these problems. Thus, in the Deficit Reduction Act of 1984 (Public Law 98-369), Congress enacted provisions establishing crite-

ria for determining when the VA pays the guaranty on a foreclosed property securing a VA-guaranteed loan instead of acquiring the property at the liquidation sale, and limiting the proportion of vendee loans which the VA may make. Additionally, the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Public Law 99-576—based on legislation (S. 1887) developed by the Committee—enacted in October 1986, required the VA to establish credit underwriting criteria in accordance with those generally accepted by commercial institutions for "automatic" lenders to follow in evaluating applications for VA home loans, to establish uniform qualifications to be met by appraisers as well as to develop a list of approved appraisers who may appraise property to be used as security for a VA-guaranteed loan, and to identify and compile information on common factors contributing to foreclosures on property securing VA-guaranteed loans, among other program improvements.

The Committee is concerned that changes in the program—particularly revisions of credit underwriting standards—not be implemented so as unduly to prevent veterans from qualifying for VA-guaranteed loans, since one of the primary purposes of the guaranty is to assist veterans to obtain loans they might not be able to obtain without the federal guaranty. However, the Committee also notes that it does not benefit the veteran to facilitate a loan for a house which the veteran cannot afford and on which he or she eventually defaults.

At the Committee's February 18 and 19 and June 30, 1987, hearings, testimony concerning the VA home loan guaranty program was provided by the VA, veterans' service organizations, and various representatives from the mortgage banking and real estate communities. The Committee heard testimony on three broad areas pertaining to the management of the program:

- (1) Program-wide issues and proposals, including the Administration's proposed sale on without-recourse a basis of 10 percent of vendee loans in fiscal year 1987 and all vendee loans beginning in fiscal year 1988, the Administration's proposed sale over fiscal years 1988, 1989, and 1990 of vendee loans totaling \$900 million from its loan portfolio, and possible staffing and equipment shortages in loan guaranty services in VA regional offices.

- (2) Assistance to veterans participating in the home loan program, including possible improvements to the type and availability of financial counseling available to veterans, particularly at the time of loan application and upon delinquency, and ways to reduce the default rates on VA-guaranteed and vendee loans.

- (3) Minimization of VA property acquisition costs and improvements in the VA's marketing and disposition of foreclosed properties.

The VA testimony generally reflected its concern over the program's present high rate of foreclosures, outlined various programmatic reforms it had introduced, and indicated its intention to continue to review additional steps to improve the financial stability of the program and to help the veterans participating in it and its willingness to cooperate with the Committee in this regard.

Specific recommendations to improve the VA loan guaranty program were received by the Committee from concerned organiza-

tions and associations. The Committee considered all of the testimony and recommendations and has incorporated, in the Committee bill, various provisions reflecting the objectives of a number of the recommendations.

Although not proposing in the Committee bill any legislative restrictions on the Administration's proposed 3-year plan to sell without recourse \$900 million of accumulated loan assets from the loan portfolio, the Committee particularly wishes to express its concern regarding this plan. The VA attempted one without-recourse sale of vendee loans in May 1987. Despite extensive advertising of and major preparations for the sale, the results were a disastrous failure. The VA received bids for only about \$8 million of the \$84 million of the vendee loans it planned to offer for sale, and the amount of those bids ranged from only 15 percent to 65 percent of the par value of the loans. As a consequence, the VA withdrew all of the loans from sale.

The planned sale of 30 percent of the VA's loan portfolio over each of the next 3 fiscal years will greatly reduce the future stream of income—in the form of payments of interest and principal—that the loan guaranty program otherwise could depend on to provide the revenues necessary to meet the VA's guaranties in case of foreclosure. As the attempted sale in April indicates, the VA likely will have to discount these loans greatly in order to sell them without recourse, so that the long-term revenues achieved through such sales will likely be less than they would have been if the loans were sold with recourse.

The Committee believes that responsible legislation must take into account the great need to reduce the towering federal deficit with respect to federal programs of benefits and services. It is the Committee's intent to address areas of the loan guaranty program in which changes can be made in order to maintain the program's solvency and reduce its dependency on taxpayers' funds without compromising the basic purposes of the program.

LOAN GUARANTY AMOUNT

Section 2(a) of the Committee bill (which is derived from section 6 of S. 9) would amend section 1810(c) of title 38 to increase the maximum VA home loan guaranty amount from \$27,500 to \$36,000.

Background

The VA's home loan guaranty is designed to substitute, in large measure, for the downpayment that would otherwise be required when a veteran purchases a home. Under current law, the guaranty is limited to 60 percent of the loan amount or \$27,500, whichever is the lesser, with regard to conventionally-built homes and condominium apartments. Lenders are thus assured of the substantial protection afforded by the VA loan guaranty and are generally willing to make loans to veterans without the necessity of a downpayment or with a lower downpayment than would otherwise be required.

Section 2(a) of the Committee bill is similar to S. 2265, introduced in the 98th Congress, and to S. 9 in the 99th Congress, both

of which proposed to increase the loan guaranty maximum to \$35,000. Although the House of Representatives in the 98th Congress (section 1 of H.R. 5617) and the Senate in the 99th Congress (section 303 of S. 1887) each passed provisions that would have substantially increased the loan-guaranty maximum, the enactment of an increase was not achieved.

The Committee believes that part of the reason for the reluctance to enact an increase in the last several years has been concern about the high rates of default and foreclosure on VA-guaranteed home loans. However, during and subsequent to that period the Congress, in Public Laws 98-369 and 99-576, discussed above, and the Administration have focused a great deal of attention on the program and the development of reasonable means to lower the default and foreclosure rates and reduce the Government's liability in the event of a foreclosure. Those laws, as described above, included such program improvements as the requirement of new underwriting criteria, guidelines establishing when the VA could bid on a foreclosed property or pay the guaranty, and quality-assurance requirements with respect to the appraisal process, among other important changes. In addition, the Committee bill contains many provisions to reduce foreclosures and improve portfolio management and sales, including creditworthiness standards to be imposed on buyers who assume VA-guaranteed loans, facilitation of refinancing of VA-guaranteed loans at lower interest rates, improved financial counseling for veterans in default on such loans, the requirement of a 5-percent downpayment on manufactured home loans, and the requirement that the VA list all acquired foreclosed properties with real estate brokers.

Housing prices have risen substantially since the most recent increase in the VA loan guaranty maximum enacted by the Congress, effective October 1, 1980. According to the National Association of Realtors, the median purchase price of an existing home in October 1980 was \$62,700. By August 1987, the median purchase price of an existing home had risen by 35.6 percent to \$85,000. In the case of new homes, the National Association of Home Builders reports that in calendar year 1980 the median purchase price was \$64,600; by August 1987, the price had risen to \$101,600—an increase of 57.5 percent.

Committee bill

The Committee bill approximates the more modest of the two 7-year increase estimates. By raising the guaranty 31 percent to \$36,000, section 2(a) would allow the value of the VA home loan guaranty to keep pace with increases in the housing market.

In written testimony submitted for the Committee's June 17, 1987, hearing, the VA stated "that an increase in the guaranty is not necessary at this time. . . . The present law provides a 38.78 percent guaranty on the average loan, which is well in excess of the 25 percent coverage required in the secondary market." But for thousands of veterans seeking to use their VA home loan guaranty entitlements, the cost of housing is so high that they cannot find any decent housing for the maximum price—\$110,000—for which the current VA loan guaranty maximum generally makes no-down-payment loans possible.

The increase in the maximum guaranty would help ensure that, to the extent interest rates and other economic factors generally make home purchases possible, the VA loan guaranty program will continue to play the role Congress intends of helping veterans become homeowners in all areas of the country, without excluding those who live in higher-cost areas.

The Committee notes that, in addition to preserving the value of the guaranty for veterans at the higher end of the market, it is important that such value be maintained for veterans at the lower end as well. VA credit underwriting standards are more flexible than those of most lenders in order to provide more veterans with the opportunity to participate in the program, particularly those who might not qualify for conventional loans and for whom the program often provides the only chance for home ownership. The 60-percent maximum guaranty provides substantial incentive and protection for lenders to make loans—particularly loans under \$50,000—to veterans who might not meet conventional loan underwriting criteria.

For fiscal years 1980 through 1986, although loans under \$50,000 accounted for 34.4 percent of the value of the total VA-guaranteed loan pool, they accounted for 51.5 percent of loan foreclosures. However, even among these "high risk" veterans, the rate of foreclosure was less than 10 percent. Accordingly, the VA guaranty allows the vast majority of such veterans to purchase and remain in homes—which most likely could not have happened if they had had to rely on the conventional market for loans. A reduction in the 60-percent maximum guaranty could serve as a disincentive to the lender to serve the veteran who needs the program most.

The Committee that the home loan program should continue to be accessible to these veterans.

LOAN PROGRAMS EXEMPTIONS

Section 2(b) of the Committee bill would, effective November 19, 1987, amend section 113(a) of title 38 to make the VA's home loan programs exempt from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119)—commonly referred to as "Gramm-Rudman-Hollings" (GRH)—as that Act may be amended, or under any other sequestration law which may be enacted. This section would also repeal provisions, in section 113(e) of title 38, requiring the Administrator, during the period that a sequestration order is in effect, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives certain reports on VA home loan guaranty commitments.

Background

In either the original GRH law or in subsequent legislation, Congress has enacted provisions making several categories of VA programs exempt from the uniform percentage reductions that are generally required to be made in federal programs during a fiscal year when the GRH targets for that year would otherwise be exceeded.

First, exemptions were provided for most benefits for which entitlement is based on service-connected death or disability, including compensation paid to veterans with service-connected disabilities; dependency and indemnity compensation (DIC) paid to the survivors of those who died from service-connected causes; specially adapted housing grants, mortgage protection life insurance, and automobile and automobile-adaptive-equipment grants for certain service-connected-disabled veterans; and burial benefits for those who die from service-connected causes. The compensation and DIC exemptions were enacted as permanent GRH exemptions in the original legislation, in section 255(b) of Public Law 99-177. Exemptions for the other benefits were enacted in section 601 of the Omnibus Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576), effective beginning with fiscal year 1987.

Second, section 255(b) of the original GRH law also made the VA non-service-connected disability and death pension programs exempt.

Third, section 601 of Public Law 99-576 provided exemptions for two self-sustaining VA revolving funds—the special therapeutic and rehabilitation activities fund and the canteen service revolving fund—effective beginning with fiscal year 1987.

Fourth, section 255(g)(2) of the GRH provided an exemption for the Government's "prior legal obligations" under VA-administered insurance programs and, after the Administration ruled that that exemption did not cover insurance policy loans under those programs, Congress enacted in section 601 of Public Law 99-576 a permanent exemption for such loans, effective beginning with fiscal year 1987.

In the case of VA-guaranteed home loans, Congress enacted two emergency measures, Public Law 99-255 and section 1 of Public Law 99-322, raising the cap which the March 1, 1986, fiscal year 1986 sequestration order—based on what proved to be a far-too-low estimate of the volume of VA loan guaranty commitments that would be issued in fiscal year 1986 in the absence of a cap—had placed on the making of VA loan guaranty commitments in fiscal year 1986. Ultimately, the second increase, to \$38.28 million, made on the basis of an updated estimate as of mid-May of the fiscal year 1986 volume if uncapped, exceeded by about \$4 billion the total amount of commitments issued by the VA in fiscal year 1986 and thus provided a *de facto* exemption for that year.

For fiscal year 1987 and subsequent years, no legislation has been enacted to exempt the loan guaranty program. However, in section 601 of Public Law 99-576, Congress enacted a requirement (codified in section 113(e) of title 38) for the VA, in any year in which a sequestration occurs, to report to the Congress on a monthly basis on the level of activity in the program.

Committee bill

The Committee believes that a permanent exemption for the loan guaranty program should now be enacted. Based on the experience in fiscal year 1986, it seems likely that if the program is ever again threatened with a substantial interruption in the issuance of guaranty commitments due to sequestration Congress

would act swiftly to raise the sequestration cap in order to avoid such an interruption. Thus, an exemption would simply avoid the need for legislative action that would provide annual exemptions.

If, on the other hand, a sequestration were actually to result in a program reduction, it seems clear that it would operate inequitably. The VA announced in a February 19, 1986, press release that it would implement the fiscal year 1986 sequestration by cutting off the issuance of commitments when the sequestration cap was reached, which at that time was expected to occur by April 1, 1986—which could have entailed a 6-month-long shut down of the program. Thus, the veterans whose home loan applications were approved after the cap was reached would be denied a guaranty at that point and would be at risk of having their purchase agreements fall through before the issuance of guaranty commitments resumed at the start of the next fiscal year. Those veterans would in effect be denied the benefit *in toto*. Other veterans would be completely unaffected.

The Committee considers it unacceptable for equally deserving veterans to be treated so disparately with respect to this important benefit. Yet, this is what a sequestration almost certainly would bring about.

The Committee bill would also make exempt the VA's insuring of home loans—an alternative to guaranteeing loans which the VA has not used in recent years—and the making of direct home loans, which are made available only in the cases of certain veterans with severe service-connected disabilities. In the Committee's view, there is no reason for the VA's insuring of home loans to be placed on a different footing from its guaranteeing of loans, and all VA benefits based on service-connected disability or death should be exempt from sequestration.

REFINANCING HOME LOANS

Section 3 of the Committee bill would amend sections 1810(e)(1) and 1819(a)(4)(A) of title 38, to allow the VA to guaranty a loan to refinance an existing VA-guaranteed loan if the veteran both owns the home securing the loan and certifies that he or she occupies, or previously occupied, the home and in the case of "equity payout" refinancing authorized by section 1810(a)(5), to limit the amount of the VA-guaranteed refinancing loan to 90 percent of the appraised property value. These provisions would be effective for loans applied for more than 30 days after enactment.

Background

Current law authorizes the VA to guaranty a loan to refinance an existing VA-guaranteed mortgage, either for the purposes of taking advantage of a reduction in interest rates (sections 1810(a)(8) and 1819(a)(1)(F)), or to refinance an existing mortgage, usually for the purposes of obtaining the equity of a home which has appreciated in value (section 1810(a)(5)). This refinancing is permissible only if the veteran both owns and occupies the home at the time the VA guarantees the refinancing loan. A loan refinanced under section 1810(a)(8) may not exceed the sum of closing costs and the outstanding balance of the loan being refinanced. A loan refi-

nanced under section 1810(a)(5) may not exceed the reasonable value of the property.

Committee bill

The Committee believes some present limitations on refinancing work of the detriment of both veterans and the government. For example, refinancing to obtain a lower interest rate gives the veteran homeowner lower monthly mortgage payments. In addition to the obvious benefit to the veteran, the taxpayer benefits because lower payments reduce the risk of default. However, the current requirement that a veteran occupy the home providing security for the loan being refinanced prohibits veterans who have subsequently moved, but continued to own the home, from utilizing this benefit. The Committee believes that in many cases these homeowners have occupations requiring frequent moves and notes that members of the Armed Forces, in particular, are adversely affected by this requirement. Thus, the Committee bill would change the occupancy requirement for interest-rate reduction refinancing under section 1810(a)(8) to require only that the veteran either occupy or have formerly occupied the property and, if the latter, certify that he or she occupies or formerly occupied the home.

In the case of loans refinanced under section 1810(a)(8), to cash out the equity of a home, the Committee believes it appropriate to protect the interest of the taxpayer by limiting the refinanced loan to 90 percent of the appraised value of the property. Allowing the VA to guarantee loans for 100 percent of the value of the property assists the home loan program in meeting the basic goal of assisting veterans to obtain a home. However, in the case of equity-payout refinancing, the veteran is already a homeowner. In this case, the Committee believes it appropriate to balance the benefit to the veteran with the interest of the taxpayer. Limiting equity-payout refinancing loans to 90 percent of the appraised value leaves the veteran homeowner with an equity interest in the home and provides a margin of protection to the lender and the government in the event of default.

DETERMINATION OF MINIMUM RESIDUAL INCOME

Section 4 of the Committee bill would amend section 1810(g)(3) of title 38, to require the VA, when it establishes a standard of residual income as a criterion for determining if veteran homebuyers are a satisfactory credit risk, to base the standard on data from the veteran's state, rather than regional data, regarding residual income and the cost of living when reliable data concerning the particular state is available.

Background

Under current section 1810(g), the VA is required, when guaranteeing a home loan, to determine that the borrower is a satisfactory credit risk. In meeting this requirement, the VA has established standards of "residual income", that is, the income remaining available to a veteran to purchase the necessities of life, such as food, transportation, clothing and medical care, after the veteran has satisfied fixed obligations, such as taxes and the proposed-

mortgage payment. The purpose of these standards is to protect the veteran and the VA against default by ensuring the veteran will have the funds needed to provide for himself and his or her family after making mortgage payments.

The VA has established standards of residual income based on regional data regarding income and cost of living. In regions with high reported costs for items, such as food, transportation, medical care, etc., a veteran must have a higher residual income in order to be determined a satisfactory credit risk.

The Committee has received testimony from Senator Domenici of New Mexico and Committee Member Simpson of Wyoming, describing the adverse affect of using a regional standard when the region is so large and diverse as to obscure the specific characteristics of individual states within the region. For example, both Wyoming and New Mexico are predominantly rural states with a relatively low wage structure and low cost of living. They are, however, combined in the Western Region with California for purposes of establishing the residual income needed to qualify for a VA loan. California has a very large population and an economy large enough to dominate economic statistics relating to the Western Region. It also has a relatively high wage and cost structure. Thus, residual income standards for the Western Region require a Wyoming or New Mexico veteran to have a residual income large enough to afford a presumed cost of living influenced by California costs and wages even though many expenses outside California can be reasonably expected to be substantially less.

Committee bill

The Committee bill would require the VA to base its standards for residual income on state, rather than regional, data when reliable state data are available.

The Committee believes it is appropriate to tailor underwriting criteria, such as for residual income, to the actual economic conditions in the state where the home and the veteran will be located. At the same time, the Committee believes these criteria should be based on reliable economic data. Thus, the Committee bill would require the use of economic data relating to individual states only when reliable economic data relating to those states is available.

The Committee notes that this provision should not be construed as a criticism of the concept of using residual income as a factor in loan underwriting. It is, rather, an effort to make application of the residual income criterion more equitable.

FINANCIAL COUNSELING ASSISTANCE

Section 5 of the Committee bill would amend section 1816(a) of title 38 to require the VA, for a 2-year trial period from January 1, 1988, to December 31, 1989, when it receives notice from the holder that a veteran is in default on a VA-guaranteed loan, to provide the veteran with information regarding alternatives to foreclosure available in light of the veteran's particular circumstances, the veteran's and the VA's liabilities, and the availability of counseling with respect to such matters. The VA also would be required to provide such counseling to the extent feasible. In addition, the Ad-

ministrator, subject to the availability of appropriations and funds from the LGRF as provided in section 12 of the Committee bill, would be required to take such steps as are necessary to ensure the availability of sufficient personnel to implement the provisions of this section effectively.

Background

Although a veteran initially meets the VA's underwriting criteria and may appear to be a good credit risk at the time a loan is made, unforeseen circumstances—including changes in employment or marital status—can result in financial hardship, making it difficult for the veteran to meet his or her obligations on a VA-guaranteed loan. Often, the veteran will not know what other options may be available to deal with the situation and a default which might have been curable results in foreclosure.

Staffing shortages at VA regional offices, in large part a function of the increased numbers of loan originations and foreclosures, have resulted in the VA regional offices providing varying levels of financial counseling and loan servicing to veterans. In addition, usually the holder of the loan—who may also be the lender—has more contact with the veteran than does the VA. The veteran makes payments to the holder, not the VA, so that the holder finds out before the VA does if a veteran goes into default. Under current section 1816(a)(1), the holder is required to notify the VA when a veteran is in default. VA regulations (section 36.4315 of title 38 of the Code of Federal Regulations (CFR)) specify that the holder must provide such notice when the veteran has been in default on a VA-guaranteed loan for 60 days from the date of the first uncured default, that is, for 90 days.

The VA considers the holder to be primarily responsible for servicing the loan. However, the VA, as the guarantor of the loan—and as the agency responsible for administering services and benefits to veterans—clearly has a strong interest in and responsibility for helping to cure defaults and prevent foreclosures.

Recent studies by both the GAO and the VA's Office of Program Analysis and Evaluation (PAE) have found that increased cure rates on loan defaults are associated with improved loan servicing. In November 1986, the GAO began a study of certain aspects of the home loan program, including an evaluation of the VA's servicing of defaulted loans. The GAO submitted its findings in the form of written testimony for the Committee's June 17, 1987, hearing. In that testimony, the GAO reported that the VA does not consistently make available to veterans loan counseling, that the "extent of loan servicing varies widely among VA's regional offices", and that none of the VA regional offices provided information on the various means of financial assistance the VA can provide unless the veteran was aware of and asked for information regarding those options. The GAO cited regional office statements that inadequate staffing was a barrier to more comprehensive and effective financial counseling.

The GAO described three primary financial assistance options which the VA has available to use in helping veterans cure loan defaults:

(1) The VA can encourage the holder to refinance the loan in order to reduce the interest rate on the loan. As the GAO noted, "[r]efinancing would provide some veterans with a lower monthly payment, thus increasing their likelihood of staying in the home."

(2) The VA can itself "refund" the loan, that is, take over the loan—thus becoming the new lender—by paying the holder the balance outstanding on the loan and establish a new repayment plan with the veteran. The GAO found that substantial savings were possible from refunding—in the form of avoiding the losses experienced upon foreclosure—and that refunding was successful in 50 percent of the cases in which it was used but that the VA refunded less than 1 percent of all defaulted loans.

(3) The VA can provide the veteran with a loan to cover the cost of selling the home. The GAO noted that the VA limits this assistance to instances where the fair market value of the property can be obtained in a sale.

The GAO observed that the VA has proven very successful in reducing foreclosures when it provides loan servicing. The few regional offices which did directly contact veterans upon receipt of a default notice from the holder experienced a cure rate much higher than those which did not. Despite the costs involved in providing such additional services, the GAO found that they were cost-effective when the costs of foreclosures were considered.

In 1985, the PAE began a study of VA outreach and credit assistance in the home loan program, included an examination of loan servicing performed by the VA. According to the preliminary findings from that study, based on the 1985 data, the PAE found that personal contact in servicing is an especially effective means of enabling veterans to find a way out of a default situation and to avoid foreclosure. The PAE also found:

(1) That the regional office personnel rely on the loan holders to provide the primary financial counseling to veterans, and that approximately half of the VA field staff surveyed felt that holder servicing reports—which the VA uses to evaluate the status of the loan—were inadequate and that that may have masked deficiencies in servicing.

(2) That the holder does not notify the VA about a default until the veteran has missed 3 loan payments—by which time it generally will be more difficult to cure a default than it would have been when the veterans had missed only 1 or even 2 payments.

(3) That, once the VA gets notice of a default, it contacts the veteran by letter; that, usually, it will then be up to the veteran to contact the VA, although some of the regional offices try to initiate telephone contact with the veteran; and that the field staff reported that personal contact was far and away the best tool for curing defaults, but staffing shortages prevented it in most cases.

(4) That, apparently because of staffing shortages, the VA has been forced to prioritize the financial counseling it provides, concentrating on those defaults which appeared the most likely to be curable.

The VA, in its written testimony for the Committee's June 17, 1987, hearing, pointed out a variety of steps it takes to help veter-

ans in default, including reviewing the servicing which the holder provided and initiating follow-up contact with the veteran. The VA stated that it has a "personalized approach to supplemental servicing of delinquent borrowers [which] results in varying degrees of assistance because the situation of each borrower is different." The VA testified more specifically as follows:

(1) That it takes an active role in assisting veterans at an early stage of delinquency; that it carefully reviews the holder's loan servicing records, follows up by attempting to contact the veterans, and then, depending on the circumstances of the particular case, may offer to provide financial counseling or to help the veteran obtain forbearance from the holder; and that it also is in contact with employment agencies that can assist the veteran-borrower in finding a job, if needed.

(2) That it reviews each case in which the holder has refused to extend forbearance to determine whether refunding the loan is appropriate.

(3) That it has taken steps to improve loan servicing, including issuing new servicing standards requiring lenders to give the veteran written notice within 20 days after a due payment is unpaid to follow up with an attempt at personal contact and to attempt a personal interview with the veteran before beginning foreclosure proceedings.

Committee bill

Section 5 of the Committee bill would require the VA, upon receipt of a notice of default pursuant to current section 1816, to provide the veteran with information regarding:

(1) Alternatives to foreclosure which are appropriate in light of the veteran's particular circumstances (including possible methods of curing the default, conveyance of the property to the VA by a deed in lieu of foreclosure in order to avoid foreclosure costs, and the VA's option, under current section 1816(a)(2), to pay the holder the remaining amount unpaid on the loan and receive an assignment of the loan and the property securing it).

(2) The veterans' and the VA's liabilities in the event of foreclosure and the consequences of allowing the loan to continue in default.

(3) The availability of financial counseling, which section 5 would require the VA to make available to the extent feasible.

The Committee intends that such information also would include the amount in default on the loan, the balance due on the loan, the value of the property securing the loan, and the veteran's assets and liabilities.

The Committee intends that the VA evaluate in each case the appropriateness of all options to foreclosure which are available to the VA—including possible means of curing the default, refunding the loan under current section 1816(a)(2), conveyance of the property by a voluntary deed in lieu of foreclosure, helping the veteran to obtain forbearance from the holder, and encouraging the holder to refinance the loan to reduce the interest rate on the loan—and notify the veteran of all such alternatives which would be feasible in the veteran's particular case.

At a minimum, the VA would be required to send the veteran a letter containing the above-specified information. The Committee intends that any such letter must indicate a form of personal contact available to the veteran—either a VA regional office or loan servicing company employee whom the veteran can call or who will call the veteran. However, in light of both the GAO and PAE studies, the Committee strongly encourages the VA to make personal contact—by telephone or, preferably, in person—with all veterans in default in order to increase the effectiveness of its loan servicing and to maximize the potential for curing defaults.

In order to ensure the greater availability of counseling and effective implementation of the other requirements of section 5, the Committee also expects the Administrator to use funds from the LGRF—which would be made available, subject to provision therefor in appropriation acts, as provided for in section 12 of the Committee bill—to ensure sufficient VA personnel to implement effectively the requirements of this section.

The provisions of section 5 would be enacted on a 2-year trial basis to allow the Committee to monitor its effect on loan-servicing and on default and foreclosure rates for VA-guaranteed loans. The Committee believes strongly, in light of the increasing number of foreclosures on VA-guaranteed loans, that better coordination of servicing efforts by the lender and the VA, with an increased role by the VA, is necessary. It is in the interest of all concerned parties—the lender, the VA, and the veteran—to cure defaults on loans.

NO-BID FORMULA

Section 6 of the Committee bill would amend section 1816(c) of title 38 to extend for one year, until September 30, 1988, the current law sunset date of September 30, 1987, for the provisions establishing the circumstances under which, based on whether it is financially advantageous to the Government to acquire at the liquidation sale the property securing a VA-guaranteed loan, the VA either acquires the property or pays the lender the guaranty. The Committee bill also would revise these provisions, effective with respect to defaults which occur more than 30 days after the date of enactment, to exclude interest that accrued during any VA-requested period of forbearance from property acquisition costs and, if the VA acquires the property, from the payment to the lender.

Background

Prior to 1984, the VA, pursuant to long-standing practice and regulations, followed an administrative procedure whereby the guaranty generally was not paid until the holder of the loan liquidated its security interest in the property. Under this procedure, the VA in over 95 percent of all liquidations agreed to acquire the property from the lender following the sale. In some cases, however, the VA acquired properties at prices which, when combined with the costs of temporarily owning and selling the property, as well as any amount remaining payable under the guaranty, resulted in total VA expenditures in excess of the amount for which the

United States was liable under the guaranty in connection with the property.

In 1984, section 2512(a)(2) of the Deficit Reduction Act of 1984 (Public Law 98-369)—adding subsection (c) to section 1816 of title 38—was enacted to ensure that the VA no longer acquired properties where that would result in net costs to the VA (after resale) in excess of what the VA would pay under the guaranty without acquiring the property. Section 1816(c)—the so-called “no-bid formula”—required the VA to follow prescribed guidelines in determining whether acquiring the property and paying the lender’s costs or paying the guaranty is in the best interest of the solvency of the LGRF. The no-bid provision was originally enacted on a trial basis with an October 1, 1987, expiration date.

In determining the net value of the property for purposes of section 1816(c), the Administrator is required to subtract from fair market value all estimated costs to the VA that are clearly and directly related to acquiring, holding, and disposing of the property, including, among other specified costs, property taxes, liens, and the cost of property maintenance and improvements. Where the estimated net value does not exceed total indebtedness minus the amount guaranteed, the Administrator is not permitted to accept the conveyance of the property and the loan guaranty liability is limited to the total indebtedness minus the amount realized by the holder incident to the liquidation sale.

In the joint explanatory statement accompanying the conference report on the Deficit Reduction Act, the conferees stated that it was

... their intention to make major changes with respect to VA policies and practices with respect to acquisitions only in the following ways: requiring the VA to take its costs of administration into account in ascertaining the value of a property to the VA (net value) and prohibiting the VA from acquiring the property in certain cases.

These modification—together with provisions codifying current policies and practices—are designed to maintain the effective functioning of the loan guaranty program and make its operation more economical and, thus, to help ensure that the program will continue to be able to fulfill its basic purpose of assisting eligible veterans to buy homes. (S. Rept. No. 98-861, pp. 1378-79)

Due to the enactment of the no-bid formula, the number of properties on which the VA has paid the guaranty in lieu of acquiring the property increased from 3,735 in fiscal year 1984 to 5,236 in fiscal year 1986. The VA acquired approximately 83 percent of foreclosed properties in fiscal year 1986, compared with 93.6 percent in fiscal year 1984.

The VA supports making the no-bid formula permanently, stating in written testimony for the Committee’s June 17, 1987, hearing, that “[e]xperience has shown that these procedures have worked well.”

The no-bid provision was enacted with a sunset date of September 30, 1987. That date was proposed to be extended for 46 days, until November 15, 1987, by S. 1691, introduced by Chairman Cran-

ston and Ranking Minority Member Murkowski on September 16. On October 1, the bill was passed by the House with an amendment and the Senate agreed to the House amendment. It was signed into law as Public Law 100-136 on October 16, 1987. (See discussion of section 13, below.)

Committee bill

The Committee bill would extend the no-bid formula for one year in order to allow an appropriate additional period of time for monitoring its effects, as revised, on the solvency and stability of the LGRF and on the home loan guaranty program generally. In its first 3 years of implementation, it appears that the no-bid formula has been beneficial for the home loan program. By requiring the VA to factor its full acquisition and disposition costs into its calculation of the net value of foreclosed property, the no-bid formula results in a realistic computation of net value.

The Mortgage Banker's Association (MBA), which represents the mortgage bankers who make over 80 percent of all VA-guaranteed loans, has raised concerns regarding the effect of the no-bid formula on lenders' participation in the home loan program. At the Committee's June 17 hearing, the MBA testified that, because the VA increasingly is paying the guaranty rather than acquiring foreclosed properties and the cost to lenders of VA-guaranteed loans thereby is increasing, "it is uncertain whether veterans in all parts of the country will be able to secure VA home loans." The MBA asserted that there has been "an average net loss per loan of \$16,500" to lenders where the VA does not acquire the property.

The Committee is concerned with the losses that lenders, as well as the LGRF, have suffered and has carefully examined the MBA's suggestions relating to changes in the no-bid formula, particularly with respect to delays in foreclosure caused by VA-requested forbearance. While such forbearance will, in some cases, enable the veteran to cure a default, in other cases it results only in the accrual of additional unpaid interest.

Under section 1816(a)(3) of title 38, the Administrator has the authority to establish a date prior to "the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease." In reporting the no-bid provision in 1984, the conferees expressed their "intent that the Administrator, in implementing this authority in conjunction with the definition of 'total indebtedness', not impose a cut-off date in a case in which the delay in the liquidation is reasonably attributable to the holder's forbearing with the agreement of the parties to the loan" (S. Rept. No. 98-861, p. 1377)—that is, that the lender not be penalized for delay resulting from forbearance requested by the VA.

The Committee bill would provide, consistent with the conferees' intent and based on a proposal made by the MBA at the Committee's February hearing, that interest which accrues during a period of VA-requested forbearance not be included in the calculation of either the no-bid formula or the payment to the lender if the VA acquires the property. In light of the lenders' willingness—as expressed by the MBA—to forego the VA's payment of the interest accruing during a period of VA-requested forbearance, the Committee believes it appropriate to exclude such interest from the no-bid

calculation. Thus, under the Committee bill, lenders would forego the right to payment for such accrued interest in return for the VA acquiring a greater number of foreclosed properties in such cases.

In order to provide the Committee with the information necessary to consider any future modification or extension of the section 1816(c) formula, the Committee directs the Administrator, not later than April 1, 1988, to submit to the Committees on Veterans' Affairs of the Senate and the House data, for each of fiscal years 1986 and 1987, on the average loss to lenders on foreclosed properties where the VA pays the guaranty instead of bidding on the property and on the average loss to the VA when it acquires such properties, together with any recommendations of the Administrator for administrative or legislative action regarding the no-bid formula. It is the Committee's intention that the data include statistics indicating, for both the cases where the VA pays the guaranty and where it acquires the property, the average amount paid, the number of loans in each of these two categories broken down by price intervals of \$5,000, and the different types of costs which the VA and the lender each incur upon acquisition and disposition of such properties.

DOWNPAYMENT AND LOAN FEE REQUIREMENTS FOR VENDEE LOANS

Section 7 of the Committee bill would amend sections 1816(d) and 1829(a) of title 38 to limit "vendee loans" to 90 percent of the value of the home and to require a 2.5 percent loan fee on vendee loans. Vendee loans are loans made by the VA to finance the purchase of homes acquired by the VA after the original buyer has defaulted on his or her loan. This provision would apply to loans made more than 30 days after enactment.

Background

If a veteran borrower defaults on a VA-guaranteed loan and a foreclosure action is commenced, the VA has the option of either paying the lender's claim under the guaranty, which consists of the outstanding balance of the loan plus accrued interest and foreclosure costs or paying the lender the guaranty amount. When the VA exercises the option to pay the lender's claim, it then takes title to the property and attempts to resell the foreclosed property to the public. As of September 1, 1987, the VA had an inventory of 21,991 homes.

The VA can sell the property for cash or act as lender and make a loan to finance the sale of a home it has acquired in this manner. These "vendee loans" can be for 100 percent of the value of the property and are made at very favorable interest rates. Vendee loans can be obtained by any buyer without regard to veteran status. The VA suffers a substantial default rate on these low-interest rate, no-downpayment loans. In fiscal year 1986, 4,011 vendee loans were foreclosed upon with a substantial loss to the Government.

Committee bill

The Committee bill would require a 10-percent downpayment on home sales financed by means of a VA vendee loan. In addition, the borrower would pay to the VA a fee of 2.5 percent, rather than the current 1-percent fee, of the total loan amount. The Committee believes 90-percent financing, a lower than market interest rate, and a 2.5-percent loan origination fee would continue to represent competitive financial terms. It also believes it appropriate that the borrowers who benefit from the generous terms and rates of this government lending program should help pay its costs. The Committee notes that the 10-percent downpayment will provide the buyer with an equity interest in the property that should be an incentive to the borrower to keep the property and the loan in sound condition. It will also reduce the loss to the VA, and the taxpayer, if the loan should be defaulted. If homebuyers elect to avoid the fee by paying cash or obtaining alternative financing, the VA and the taxpayer will avoid the risks, and costs, of future foreclosures.

VENDEE LOAN CEILING

Section 8 of the Committee bill, which is identical to the proposed legislation which the Committee is recommending to satisfy its reconciliation requirements and which is derived from section 8 of S. 920, the Administration-requested bill, would amend section 1816(d) of title 38 to increase for fiscal years 1988, 1989, and 1990 the proportion of acquired foreclosed properties which the VA is required to sell on a cash rather than vendee-loan basis from a minimum of 25 percent and a maximum of 40 percent to a minimum of 40 percent and a maximum of 60 percent. The Committee bill also would decrease from 80 percent to 70 percent the level to which the Administrator has discretionary authority to increase the proportion of vendee-loan sales—above the proposed statutorily-specified maximum of 60 percent—when “necessary in order to maintain the effective functioning of the loan guaranty program.”

Background

Buyers of foreclosed properties the VA has acquired as the result of defaults on VA-guaranteed loans have two options available with respect to financing such purchases. They can pay cash (which they usually will obtain through a loan from a conventional lender), or, if they qualify under the VA's credit-underwriting criteria, the VA will finance the transaction and accept the buyer's note—known as a “vendee loan”.

Section 1816(d), enacted in section 2512(a)(2) of the Deficit Reduction Act of 1984 (Public Law 98-369), restricts the number of VA-acquired foreclosed properties which the VA in any fiscal year may sell on a vendee-loan basis to a maximum of 75 percent and a minimum of 60 percent of all purchases of such properties in that year. Section 1816(d) also provides the Administrator with discretionary authority to increase the proportion of vendee-loan financing up to 80 percent where “necessary to maintain the effective functioning of the loan guaranty program.”

Prior to the enactment of section 1816(d), the proportion of properties sold on a vendee-loan basis averaged 87 percent. In fiscal

year 1986, 66 percent of properties were sold on a vendee-loan basis. The discretionary authority to increase the proportion of vendee loans has not been used since the enactment of the provision.

In response to the reconciliation instructions to the Committee in section 4(j) of the Concurrent Resolution on the Budget for Fiscal Year 1988 (H. Con. Res. 93), and along lines proposed in section 8 of S. 920, the Committee submitted to the Budget Committee as its recommendations for savings to be included in a Senate reconciliation bill, a provision identical to section 8 of the Committee bill.

Committee bill

Since the enactment of the statutory limit on vendee loan sales in 1984, the VA has been able to comply with the requirement to make at least 25 percent of its sales of acquired properties for cash without making substantial discounts in the cash price and therefore without great cost to the LGRF. In fact, in fiscal year 1986, the agency made a greater proportion of its sales on that basis—approximately 34 percent.

However, the Committee believes that serious questions exist concerning the wisdom and long-term impact on the LGRF of requiring that all vendee loans be sold without recourse and notes that the requirement to increase cash sales is advantageous in terms of a contribution to the long-term solvency of the LGRF only in the context of the Administration's requirement that all sales of vendee loans be made on a non-recourse basis. Since the Committee intends to monitor closely the effects of without recourse sales on the LGRF, the Committee bill provides that the reduction in the proportion of vendee-loan sales shall be in effect for only 3 years.

VOLUNTARY DEEDS IN LIEU OF FORECLOSURE

Section 9 of the Committee bill would amend section 1816 of title 38 to provide that, in the case of a veteran who conveys to the VA, by means of a deed in lieu of foreclosure, property securing a VA-guaranteed loan and agrees to remain liable to the VA for any remaining debt, laws (state "antideficiency statutes") which extinguish the mortgage debt when the lender forecloses on the loan through non-judicial means—including acceptance of a deed in lieu of foreclosure—would be overridden under the Supremacy Clause in Article 6 of the U.S. Constitution. This section of the bill would also amend section 1816 of title 38 so as generally to exclude from the veteran's debt to the VA the cost of a foreclosure proceeding where the VA has refused the veteran's timely and voluntary offer to convey the property to the VA without being released from the debt. The provision would not apply if the basis for the refusal was a determination that the VA would not be permitted under section 1816(c) of title 38 to acquire the property. The amendments made by section 9 would apply with respect to defaults occurring after the date of enactment.

Background

Many states have enacted some form of anti-deficiency statute to provide generally that, where a lender forecloses on the property

securing the mortgage loan by non-judicial means—which includes accepting a voluntary deed in lieu of foreclosure—any remaining debt owed to the lender is extinguished. In such states, in order for the lender to preserve and collect any debt over and above the value of the property, the lender must bring a judicial foreclosure proceeding, which affords the debtor certain procedural protections which non-judicial foreclosures do not provide.

The GAO recently completed a review of several aspects of the VA home loan program, including loan servicing and financial counseling assistance provided veterans. (See discussion of section 5, above.) One of the GAO's recommendations was that the VA should carefully evaluate use of voluntary deeds in lieu of foreclosure as an option for veterans in default. The GAO noted that this alternative to foreclosure generally would enable the VA to acquire the property more quickly and to avoid substantial costs, including liens, accrued interest, taxes, and legal expenses, which are added to the veteran's indebtedness.

However, the anti-deficiency statutes have been construed as applying to VA-guaranteed loans and to the VA itself, as well as to conventional loans and private lenders. Accordingly, in states which have enacted such statutes, if the VA were to accept the veteran's deed in lieu of foreclosure, the veteran automatically would be released from his or her debt to the VA, including any amount which exceeded the value of the property. The VA, therefore, has been reluctant to accept such deeds, and, according to GAO data, acquired only 6 percent of foreclosed properties by the means during fiscal year 1986.

The VA Inspector General, in a September 1986 audit of the VA loan guaranty program property acquisition, management, and sales, estimated that in fiscal year 1985 the VA acquired 1,728 such properties by deeds in lieu of foreclosure, while it could have acquired at least 4,809 properties by such means if it had more aggressively pursued this option. The costs avoided would have been approximately \$16.2 million compared to the actual experience that year.

The VA, in written testimony for the Committee's June 17 hearing, stated that it encourages lenders to pursue voluntary conveyances. However, in states with anti-deficiency statutes, if the veteran's debt exceeds the value of the property and it appears the veteran would be able to repay the debt, the VA does not consider a voluntary conveyance appropriate because it would extinguish a debt that the VA might subsequently be able to collect.

With respect to the determination of the amount of the veteran's debt to the VA, the VA, pursuant to the Administrator's discretionary powers under current section 1820, calculates that debt as the amount of any payment over and above the value of the property securing the VA-guaranteed loan which is owed to the lender under section 1816(c). Such amount currently includes the cost of any foreclosure proceeding, regardless of whether the veteran has offered to convey the property by a deed in lieu of foreclosure.

Committee bill

Conveyance of the property securing a VA-guaranteed loan by a voluntary deed in lieu of foreclosure will be an appropriate means

of avoiding costs for both the VA and the veteran in many cases. The Committee recognizes that, in some cases—for example, where a default might be cured—the VA might take other steps, such as financial counseling, before accepting such a deed. Additionally, the Committee bill would not require that, as a result of this provision, the VA acquire property on which it would otherwise have paid the guaranty in accordance with the provisions of section 1816(c) of title 38. However, the Committee encourages the VA, in all cases where the veteran's default does not appear to be curable, to evaluate the appropriateness of conveyance of the property by a deed in lieu of foreclosure, in order to avoid unnecessary foreclosure costs.

Since the Committee bill would enable the VA to accept a deed in lieu of foreclosure without extinguishing the veteran's remaining debt, the Committee believes that it would not be fair for the veteran to incur a penalty—in the form of an increased debt to the VA—as a result of the VA's refusal to accept, in circumstances where it would be appropriate, a voluntary deed in lieu of foreclosure. Accordingly, the costs—including the costs of legal proceedings—of subsequent foreclosure proceedings would not be included in calculating the veteran's debt to the VA in such cases.

As noted above, the Committee does not intend that the VA, through deeds in lieu of foreclosure, acquire properties which it would not have bid on under section 1816(c). Nor does it intend that, when foreclosure proceedings already have been initiated or the VA otherwise would not have time to evaluate a voluntary offer to convey, a veteran be able to reduce his or her debt to the VA by offering to convey the property. Therefore, in such circumstances, a veteran's unaccepted offer of a deed in lieu of foreclosure would not serve to exclude foreclosure costs from the debt to the VA.

ASSUMPTIONS OF VA-GUARANTEED LOANS

Section 10 of the Committee bill would amend section 1817 of title 38 to require generally that, before a VA-guaranteed loan could be assumed by the buyer of a veteran's home, the VA—or a lender approved by the VA under section 1802 of title 38 to make automatically-guaranteed loans—must conduct a credit check on the buyer, using the same standards as are used to evaluate the creditworthiness of a veteran applying for a guaranteed loan. If the buyer is found creditworthy, the veteran would automatically be released from liability to the VA, unless the Administrator determines this would not be in the interest of the solvency or stability of the LGRF. Alternatively, this section would provide that the veteran and the buyer could request that, instead of the credit check, the veteran and the buyer be made jointly and severally liable for the loan. In such a case, if, after 5 years, a foreclosure or comparable proceeding has not been completed or is not pending, the veteran automatically would be released from liability. Before a credit check could be initiated, the VA or approved lender would be required to provide a written explanation of these alternatives to the veteran, and the veteran would have to certify having been so advised. In addition, a fee equal to 0.5 percent of the loan balance

would be imposed on the buyer, for deposit in the LGRF. Also, the Administrator would be required to establish reasonable limits on the fees which a lender could charge for processing applications for assumptions, including the performance of a credit check, and requirements for the timely processing of applications for acceptance of assumptions. The amendments made by section 10 would apply with respect to loans made more than 180 days after the date of enactment.

Background

Under current law, there are no restrictions regarding the assumption of VA-guaranteed loans. In contrast to conventional loans, which generally cannot be assumed, the purchaser of the veteran's home may assume the veteran's loan without undergoing a credit check or meeting any underwriting criteria. Unlike the original veteran borrower, such a purchaser also does not have to pay any origination or processing fee. In addition, notification that an assumption has been made is not required to either the VA or the holder of the loan.

The free assumability of VA-guaranteed loans has made it easier for veterans to sell their homes, which may have helped avoid veterans' defaults in certain circumstances. In addition to avoiding the time and expense of undergoing a credit check—which some buyers might not pass—the assumption of a VA-guaranteed loan provides the buyer with an interest rate which generally is lower than that on conventional mortgages.

Unfortunately, there are also certain disadvantages associated with the easy assumability of VA-guaranteed loans. The veteran—whose creditworthiness already has been approved—generally remains liable for the loan after it has been assumed. Current section 1817(a) allows the veteran to apply for release from liability to the VA, which will be granted if the assumptor passes a credit check and is obligated by contract to purchase the property and to assume full liability for repayment of the loan. However, according to VA data, only a small percentage of veterans who may be eligible for a release apply for one, perhaps due to lack of information. Therefore, if there is a default on the loan, it is the veteran—who may not realize that he or she remained liable on the loan and may have purchased a new home on which he or she became liable for a new mortgage—who often bears the responsibility for repayment.

In some cases, the assumability feature of VA-guaranteed loans has enabled persons who otherwise could not afford to buy a home—and who therefore eventually default on the loan—to do so, at the expense of the veteran and the VA. It also has fostered abuses such as equity skimming, where the person who assumes the veteran's loan rents out the property, makes few or no mortgage payments, and then defaults, leaving the veteran responsible for repayment of the debt.

Although the VA does not have statistics on the foreclosure rate on assumed loans—since current law does not require the veteran, the buyer, or the lender to notify the VA when a loan is assumed—14 percent of the foreclosures on properties secured by VA-guaranteed loans are on properties secured by assumed loans. Based on

the VA's estimate of 25,638 foreclosures on properties securing VA-guaranteed loans in fiscal year 1986, it appears that approximately 3,700 foreclosures in that year involved loans that had been assumed.

The VA, in written testimony for the Committee's June 17 hearing, before section 10 of the Committee bill was developed, expressed its support for the imposition of a fee on assumptors. With respect to requiring underwriting on assumptions, the VA, while raising concerns regarding the additional expense and time involved, also stated that "a review of the creditworthiness of a person assuming a VA loan should reduce the possibilities of the loan being assumed by an unqualified purchaser, and would decrease the possibility of default and foreclosure."

Committee bill

The Committee recognizes that the easy assumability of VA-guaranteed loans can enhance the marketability of veterans' homes, particularly when interest rates are rising, and that the expense and delay in processing a credit check and assumption fee could make it somewhat more difficult for veterans to sell their homes. However, these advantages must be balanced against the actual and potential detriment to the LGRF, as well as to the veteran, from allowing unapproved purchasers to assume VA-guaranteed loans. The tremendous increase in defaults on VA-guaranteed loans over the past 4 years demands a strengthening of program—and veteran—protections.

The Committee bill balances the concerns of protecting the LGRF and the veteran from defaults on assumed loans against the interest in minimizing delay and expense in processing applications for assumptions in order to prevent the loss of a sale. Accordingly, lenders approved under section 1802(d) of title 38 to make automatically-guaranteed loans—those lenders who make over 85 percent of VA-guaranteed loans—would be authorized to perform and approve credit checks on assumptors, as they do on veterans, thereby limiting the potential for processing delays such as have been recently experienced in the program due in part to understaffing in VA regional offices. Additionally, the Administrator would be required to establish in regulations requirements to ensure the timely processing of applications for acceptance of assumptions. The maximum fees which lenders would be able to charge for processing applications for assumptions, including conducting a credit check, would be established by the Administrator through regulations based on a "reasonableness" criterion, but could not exceed \$500 for a credit check and \$50 for processing an application where the veteran has elected to remain liable for the loan and no credit check is performed.

The Committee bill would allow the veteran to determine whether he or she will be released from liability to the VA and thus accept the risk of a possible default by an unapproved assumptor by remaining liable on the loan—but only as a result of a positive election after disclosure to the veteran regarding his or her rights and liabilities. To ensure that the veteran is able to make as fully informed a decision as possible, the VA or the approved lender would be required to provide the veteran with a full, written expla-

nation of the veteran's options and potential liabilities under each before the veteran chooses one, and the veteran would have to certify that he or she had been so advised.

Under the Committee bill, the veteran would generally automatically be released from liability to the VA immediately upon the completion of the sale and assumption if the creditworthiness of the assumptor were approved. The assumptor would be required to meet the same underwriting criteria to qualify for a VA-guaranteed loan that veterans themselves must meet, thereby ensuring equivalent protection for the LGRF, and to assume full liability for repayment of the loan. If this assumptor's credit is approved, the veteran automatically would be released from liability to the VA unless the VA were to determine that the release would not be in the interest of the solvency or stability of the LGRF. The Committee intends that, in the vast majority of cases, the VA release the veteran's liability, and that the withholding of a release would occur rarely—for example, where the assumptor only marginally satisfied the underswriting criteria.

The Committee anticipates that, in most cases, the veteran would pursue the option of being released from liability to the VA. However, where, for example, the additional expense and delay—however minimal—of the credit check might cause the sale to fall through, or where the veteran had a personal relationship with the buyer and wanted to assist the buyer in acquiring a home—in a manner akin to consigning a loan—the veteran could exercise the option of facilitating the purchase by agreeing to become jointly and severally liable with the assumptor on the loan.

Having the veteran remain liable for the loan—which occurs in most cases currently—provides protection for the LGRF equivalent to requiring that the credit of the assumptor be approved, since the veteran's credit would already have been approved by the original lender or the VA.

According to data from the National Association of Realtors, defaults after the first 5 years of a loan are generally quite rare, and the Committee believes that a record of five years of payment on a loan without foreclosure is generally a good indicator of the creditworthiness of the assumptor.

Once the creditworthiness of the jointly-liable assumptor has been established through 5 years of payments—that is, there is no foreclosure suite pending at the end of the 5-year period—the veteran automatically would be released from liability to the VA. The Committee intends that the veteran who has elected to enter into joint and several liability also would have the right—as the veteran whose loan has been assumed currently does—with the consent of the assumptor, to have the assumptor assume full liability for the loan and to be approved by credit underwriting standards as described above, and be released from liability to the VA before the 5 years have elapsed.

For the provisions of this section to be enforceable by the VA, it must have notice that an assumption has occurred. Thus, the Committee bill would require, first, that the loan documents contain notice in conspicuous position, in capital letters, and in large type that the loan is not assumable without the approval of the VA or its authorized agent. Second, the veteran would be required to

notify the holder of the loan before transferring the property securing a VA-guaranteed loan. Should the veteran fail to do so, the holder would have the right to demand immediate and full repayment of the loan. Third, the holder would be required to notify the VA upon obtaining knowledge that such a transfer has been made. Should the holder knowingly fail to do so, it would be liable for any resultant damages sustained by the VA.

In light of the value to the assumptor of the VA's continuing to guarantee the loan following the sale, the Committee bill would impose a fee on assumptors—0.5 percent of the loan balance—which would generate revenues for the LGRF without increasing fees imposed on veterans.

At the Committee's July 31, markup, Ranking Minority Member Murkowski proposed an amendment to increase the proposed 0.5-percent fee to 1 percent. The Committee voted 6 to 5 to defeat the amendment.

Although the Committee recognizes the equitability of the arguments for making the assumptor's fee the same as the fee veterans pay and the need for increasing LGRF income, other factors strongly indicate that a 0.5-percent fee would be more appropriate.

First, this would be the first time a fee would be imposed on assumptions of VA-guaranteed loans. The extent to which such a fee might hamper veterans in their ability to sell their homes is unclear. However, representatives of the housing and real estate industries have stated that a fee would negate some of the advantages of assuming a VA-guaranteed loan. In terms of the average \$70,000 VA-guaranteed loan, the difference between a 0.5-percent and 1-percent fee would be \$350.

Second, the cost of the fee would likely be shared in some cases by the veteran-seller. Although the assuming buyer would be responsible for paying the fee directly, it is likely that in many instances the cost of the fee would become part of the general negotiations over the price of the property, with the result that the veteran would, directly or indirectly, end up paying a portion of the fee.

Third, where a veteran is in default on a loan—particularly in the first year of the loan, when little equity has been built up in the property and the amount of the loan may equal the value of the property—the ability to sell the property quickly, without added costs, could be a crucial factor in turning a potential foreclosure into a sale.

Accordingly, in consideration of the above factors, the Committee intends to monitor closely the effect of the 0.5-percent fee on assumptions and veterans' ability to sell their homes, and to review periodically the appropriateness of any increase or decrease in the fee.

DOWNPAYMENT ON MANUFACTURED HOME LOANS

Section 11 of the Committee bill would amend section 1819(e)(4) of title 38, to limit loans guaranteed for the purchase of a manufactured home to 95 percent of the value of the home.

Background

Current law allows the VA to guaranty a loan for 100 percent of the value of a manufactured home. Experience has shown that loans for the purchase of manufactured housing have a very high default rate. Only 6,022 of 313,769, or less than 2 percent of the loans guaranteed by the VA in fiscal year 1986 were for manufactured homes, but almost 11 percent of the loans defaulted in that year were for manufactured homes. In addition, manufactured housing generally experiences significant depreciation in the first few years of ownership. This reduces the value of the property securing the loan. The VA's losses are proportionately higher for manufactured home loans than for conventionally built homes. In fiscal year 1986, the average loss to the VA per defaulted loan for a conventional home was \$14,450—18 percent of the \$78,938 average loan amount for a new house. The same year, the average loan for a manufactured home was \$22,096 and the average loss when such a loan was defaulted was \$8,307—37 percent of the average loan amount.

Committee bill

The Committee bill would require, for loans for which guaranty commitments are issued more than 60 days after enactment, a 5-percent downpayment for loans made to purchase a manufactured home. The Committee believes a 5-percent downpayment will not significantly reduce access of veterans or servicemembers to housing and will help counteract the unique features of manufactured housing which impose disproportionate costs on the VA Loan Guaranty Revolving Fund (LGRF). A downpayment will give veteran homebuyers an equity interest in their homes, which experience shows reduces the likelihood of default. In the event of a default, the equity will reduce the likelihood that the lender or taxpayer will suffer a loss because the outstanding loan balance exceeds the value of the property. The Committee believes that veterans are not well served when they receive loans as to which a substantial likelihood of default and foreclosure exists.

CONTRACT SERVICES PAID FROM THE LGRF

Section 12 of the Committee bill would amend section 1824 of title 38 to expand the VA's authority to pay from the LGRF loan guaranty program administration expenses so as to cover supplementary contractual services and equipment purchases not otherwise authorized to be paid from the LGRF when the Administrator makes a finding that such supplementary contracting and equipment are in the best interest of the long-term stability and solvency of the LGRF. In each fiscal year, there would be available for these purchases the amounts collected by reason of the increase, proposed in section 7, from one percent to 2.5 percent in the fee charged for vendee loans and the new 0.5-percent fee on assumptions of VA-guaranteed loans proposed in section 10 of the Committee bill, plus in fiscal years 1988 and 1989 \$2 million, for a total not to exceed \$15 million in any fiscal year.

Background

Current section 1824, added in 1960 by Public Law 86-665, makes the LGRF available—to the extent provided in appropriations acts—for all home loan guaranty and insurance operations, except for administrative expenses. Section 1824 was amended in 1986 (Public Law 99-322) to exclude from the bar on the use of the LGRF for administrative expenses those incurred for appraisals performed on a contractual basis in connection with the liquidation of VA home loans. Since the enactment of that law, \$15 million from the LGRF has been used to contract for such appraisals.

As a result of the authority provided under section 1824(b) with respect to contract appraisers, in fiscal year 1987 contract fee appraisers performed approximately 87,000 appraisals. If those appraisals had had to be performed by VA employees, either additional FTEE would have been required or processing delays would have been increased at a time when many VA regional offices already were experiencing substantial delays.

Staffing shortages have severely hampered the VA's ability to provide many loan guaranty program services on an adequate and timely basis. Between fiscal year 1984 and fiscal year 1987, the VA estimates that the number of VA loan originations increased 74.9 percent, from 251,588 to 440,000; the number of defaults on VA-guaranteed loans increased 22.9 percent, from 158,387 to approximately 194,000; the number of foreclosures on VA-guaranteed loans increased 49.1 percent, from 28,036 to 41,802; and the number of properties which the VA acquired increased 34.1 percent, from 22,817 to 30,600. Despite this tremendous increase in the volume of activity in the home loan program, the number of FTEE in the program rose by only 1.6 percent—from 2,031 to 2,063—over these 4 fiscal years. Not surprisingly, the provision of discretionary and non-essential services has at times been abbreviated or discontinued, regardless of the cost-effectiveness or long-term impact on the program.

For example, financial counseling to veterans in default is provided inconsistently among the VA regional offices despite reports from the GAO and the VA's PAE (see discussion of section 5, above) that such counseling—especially when it includes in-person contact—is very effective in enabling veterans to cure defaults. Also, much of the loss that the VA has incurred in the loan guaranty program is the result of the length of time it takes the VA to dispose of its foreclosed acquired properties, since losses on a property increase with the added management costs—including taxes and maintenance—of holding that property for any extended period of time.

Committee bill

The Committee believes that permitting the Administrator to use funds from the LGRF to pay for certain additional administrative costs in addition to fee-basis appraisers would allow for a more consistent, comprehensive, and cost-effective provision of services in the home loan program. Although, ideally, VA staff might better be able to provide certain services than contract personnel in some instances, that is certainly not true of all loan guaranty program

administrative functions. In addition, the Committee believes that providing for certain additional acquisitions of equipment not otherwise provided for in the appropriations for program administration expenses—such as computers for use in property management and disposal—would contribute substantially to improved program operations.

The Committee bill would permit the VA, to the extent and in such amounts as may be provided for in appropriations Acts, to use LGRF funds for additional contractual services or equipment purchases not currently authorized under section 1824(b) to be paid for from the LGRF only when the Administrator finds that that would be in the interest of the long-term solvency and stability of the LGRF. This would be the case where the short-term cost of contracting for the additional services are expected to generate long-term savings which would exceed the cost of such personnel. For example, contracting with a loan-servicing company to provide financial counseling to veterans in default may well be found to be cost-effective in reducing the estimated number of foreclosures to an extent that would ultimately save revenues in excess of the cost of the contracted-for services.

The Committee bill would provide that LGRF funds would be made available only for supplementary services and equipment—that is, for services and equipment which were not available during, or are to be provided at a level in excess of what is provided for, fiscal year 1987. The Committee bill excludes from the new contract authority services—such as commissions paid to real estate brokers for sales of VA foreclosed properties—and equipment which currently may be paid for from the LGRF. The Committee stresses its intention that the expansion of authority to use revenues in the LGRF may not be used to offset any reduction in or reassignment of loan guaranty program FTEE or equipment which would otherwise be provided.

The PAE study found that, in addition to the fee-basis appraisers paid for from the LGRF, the VA had utilized the services of a limited number of contract personnel in the home program on a piece-work basis, usually limited to the issuance of commitments on loans made by prior-approval lenders and of certificates of reasonable value and loan guaranty certificates. Many of such personnel are ex-VA employees who are familiar with and may have had some experience in performing the type of work they are called upon to perform under contract. Generally, they have worked at home, so that additional VA office space has not been needed. The Committee encourages the VA, in contracting for supplemental services to, where feasible, use former VA employees in order to promote both efficiency and quality in the delivery of such services.

The Committee bill provides that supplementary services which, in the long-term interest of the LGRF, may be contracted for include the services of:

1. Appraisers to review appraisal reports and issue certificates of reasonable value.
2. Loan-servicing companies and individuals to perform personal supplemental servicing of VA loans

3. Accounting firms to conduct on-site audits of lenders making VA-guaranteed loans and to review lender submissions regarding such loans.
4. Real estate brokers to promote the sale of real property acquired by the VA as the result of a default on such loans.
5. Contractors to review loan documents in order to achieve compliance with VA requirements and to issue guaranty certificates.
6. Contractors to list VA-acquired foreclosed properties for sale in local newspapers.
7. Contractors to prepare closing documents and review them after closing.

The revenues for the supplemental contractual services and equipment would be derived—except for \$2 million which would result from additional savings which the Committee bill would generate as a result of sections 2(a) and 14—from the increase from 1 to 2.5 percent in the fee which section 7 of the Committee bill would impose upon purchasers of VA-acquired foreclosed properties who obtain vendee loans from the VA and from the 0.5-percent fee which section 10 of the Committee bill would impose upon assumptions of VA-guaranteed loans. An overall annual limit of \$15 million in any fiscal year would be set on the amount of LGRF funds which may be used for the expanded contractual services or equipment purchases.

LOAN FEE

Section 13 would amend section 1829(c) of title 38 to extend for 2 years, until September 30, 1989, the current-law sunset date of September 30, 1987, for the 1-percent fee which is charged all veterans, other than those with compensable service-connected disabilities, obtaining VA-guaranteed or direct VA home loans and all persons obtaining VA loans to finance their purchase of a property from the VA.

Background

The current requirement for the collection of a fee on VA housing loans, contained in section 1829 of title 38, was enacted in section 406 of the Omnibus Reconciliation Act of 1982 (Public Law 97-253). It was derived from legislation proposed by the Administration and introduced as S. 2379, on April 15, 1982. On July 20, 1982, the Committee included in the legislative recommendations which it submitted to the Budget Committee, pursuant to the reconciliation instruction to the Committee set forth in section 2(b)(7) of the Concurrent Resolution on the Budget for FY 1983 (S. Con. Res. 92) for inclusion as title VII of S. 2774, the Omnibus Reconciliation Act of 1982, a provision (section 706) to impose a 0.5-percent fee on loans guaranteed, made, or insured by the VA. A comparable provision was approved by the House in H.R. 6955.

In the report accompanying S. 2774, this Committee stated.

Loans guaranteed by the VA . . . offer several significant advantages not available through conventional mortgage transactions. The most important of these is the fact that the Government's guarantee obviates the need for

substantial downpayments, by offering the lender comparable protection. In addition, VA guaranteed loans are available . . . at interest rates generally below prevailing market rates, accompanied by other investment safeguards applicable to conventional mortgage transactions. At present, there is no fee charged in connection with these loans comparable to the fee—presently averaging between 3 and 4 percentage points on the total amounts of the loan—charged in connection with conventional mortgages. . . .

The Committee believes that the VA Loan Guaranty Program provides a unique and invaluable service to veterans for whom the downpayment demands associated with a conventional mortgage would prove too great an obstacle to home ownership. The Committee is of the view that the imposition of the . . . fee, with the option of financing, provided for in this section, represents a modest and not unreasonable burden to impose upon beneficiaries of these useful VA loan programs. (S. Rept. No 97-504, pp. 247-48)

The Committee believes, in light of the significant financial problems now facing the LGRF, that these views are equally applicable in the context of the present legislation.

Subsection (c) of section 1829 of title 38 as originally enacted provided that loan fees collected under that section would be deposited into the Treasury. In 1984, section 1824(c) was amended by section 2511(b) of the Deficit Reduction Act of 1984, Public Law 98-369, to provide that the fees be deposited in the LGRF. (That law also increased the amount of the fee to 1 percent.) The Committee continues to believe that it is appropriate that fees generated by this program should, now that the program is experiencing serious financial difficulties, be used to defray the considerable costs of its operation.

As noted above, the section enacting the fee contained a September 30, 1987, sunset date. Accordingly, on September 16 Chairman Cranston and Ranking Minority Member Murkowski introduced S. 1691 to provide 90-day extensions, through December 31, 1987, of the one-percent fee and of the provisions of section 1816(c) of title 38 establishing the "no-bid formula" for determining whether the VA acquires, or does not acquire, at a liquidation sale the property securing a VA-guaranteed loan that is in default, which also had a sunset date of September 30, 1987, established in section 2512(c)(2) of the Deficit Reduction Act of 1984 (Public Law 98-369).

S. 1691 was introduced as an interim measure, pending enactment of a comprehensive home loan bill, principally to prevent a substantial hiatus in the collection of the fee, which would both be inequitable to those required to pay the fee before and after the hiatus and would jeopardize the solvency of the VA's LGRF. Without the fee, there would be a need for additional appropriations—currently above \$20 million per month—to pay the claims of the holders of defaulted VA-guaranteed loans.

On October 1, 1987—the day after the fee and no-bid provisions had expired—the House passed an amended version of S. 1691. The House-passed version provided, in lieu of the 90-day extension, a

46-day extension through November 15, 1987. It also contained a provision which would permanently prohibit the VA from selling loans made to purchasers of VA-acquired foreclosed properties—known as “vendee loans”—without recourse, unless such loans are sold for par value.

Although reservations were expressed by the Chairman on behalf of himself and the Ranking Minority Member (S13344, *Congressional Record*, October 1, 1987) regarding the almost absolute prohibition on nonrecourse vendee loans, the Senate concurred in the House-passed version on October 1, 1987. The President signed the bill on October 16, 1987.

Committee bill

The 1-percent fee which the Committee bill would continue in effect for 2 fiscal years would, based on the fiscal year 1986 average loan of \$70,006, result in an average fee of \$700 per loan. The Committee bill would preserve the current law exemptions for veterans entitled to receive service-connected disability compensation and for surviving spouses of veterans who died of service-connected disabilities, in keeping with the Committee's long-standing view that benefits for or on behalf of service-connected disabled veterans are and should continue to be the highest priority mission of the VA.

The Committee bill also would leave intact the present provision affording eligible veterans the option of paying the fee in cash at the time of settlement or of financing it as a part of the initial principal amount of the loan. If the veteran opts for the latter course, the fee is payable in its entirety by the lender to the VA at the time of settlement, and the veteran incurs the obligation to repay the principal amount of such fee, together with interest, under the same terms and conditions governing the veteran's obligation to repay the principal amount of the loan itself.

Cost savings of \$269,100,000 resulting from the continuation of the loan fee have been assumed for fiscal year 1988 in the Concurrent Resolution on the Budget for FY 1988 (H. Con. Res. 93) and are included in the baseline figures underlying the Congressional budget. Accordingly, failure to extend the fee would increase the difficulties Congress faces in meeting its budget target for fiscal year 1988 and subsequent fiscal years.

The Committee rejects the Administration's proposal to raise the fee from 1 to 2.5 percent. The Committee reiterates its view, expressed above, that this program is a benefits program and should not have to be self-sustaining.

Although the VA has proposed making the fee permanent, the Committee has recommended only a short-term extension. The Committee recognizes the need for other actions to address the long-term solvency requirements of the LGRF and has proposed other provisions to do so.

It remains the Committee's intention to continue to review carefully the need for the fee in terms of both the short-term and long-term solvency and stability of the LGRF.

LENDER REVIEW OF APPRAISALS

Section 14 of the Committee bill would amend sections 1831 and 1810(b) of title 38 to permit lenders who are authorized to make VA-guaranteed loans on an "automatic" basis to determine directly, after ordering the appraisal, the reasonable value of the property securing the loan. This direct appraisal authority would be in effect for a two-year period beginning January 1, 1988.

Background

Under current section 1810(b)(5) of title 38, VA-guaranteed loans may not exceed the reasonable value of the property securing the loan. Under current law, a VA-designated appraiser is selected by the VA (from a list on a rotating basis) to appraise the property. Based on the appraiser's report, the VA then issues a certificate of reasonable value for the property. This certificate is furnished by the VA to the lender and established a limit on the amount the VA will guarantee for a loan secured by the property.

Committee bill

The Committee is concerned that the requirement that the VA issue the certificate of reasonable value (CRV) before the lender completes the processing of the loan both unnecessarily increases the workload of VA regional office loan guaranty divisions and extends the processing time for obtaining guaranteed loans, especially in view of assertions that resource limitations have stretched loan guaranty divisions to the limit and that lengthy processing times have had adverse effects on home-buying veterans.

Hence, the Committee bill would allow the VA to authorize the lender making a loan to determine the reasonable value of the property. This authority would be limited to lenders authorized to guarantee loans on an "automatic" basis under section 1802(d). The appraiser would be selected using existing procedures for establishing a list of qualified appraisers and selecting appraisers from the list. The appraiser would, however, submit the appraisal report directly to the lender. The lender would then review the appraisal and furnish a copy to the concerned veteran and the VA.

In those instances where the authority for lender review of an appraisal is not used, as under current law, the appraisal would be ordered by the VA and submitted to it, the VA would determine the property's reasonable value and notify the concerned veteran of its determination, and the determination would be provided to the lending institution upon request. The authority provided by the Committee bill for lender review of appraisals would be for a 2-year period beginning October 1, 1988, and ending September 30, 1989.

The Committee believes the existing authority for processing loan applications on an "automatic" basis has made the best use of the VA's resources by allowing the lender to process routine loans under VA oversight. The Committee intends that lender review of appraisals will provide the same benefit to the appraisal process that "automatic" loan approval has provided for the loan underwriting process. The Committee bill also requires the VA to establish, through the expanded authority to provide for supplemental contractual services from the LGRF, a system to monitor and

review, on a spotcheck basis, the appraisal determinations of lenders and provide oversight and feedback to the lenders. The Committee will review the VA's experience in order to determine if the authority for lender review of appraisals should be extended beyond the 2 years provided for by the Committee bill.

MARKETING VETERANS' ADMINISTRATION ACQUIRED PROPERTIES

Section 15 of the Committee bill would amend section 1832 of title 38 to require the VA to list for sale with real estate brokers all properties acquired as a result of a default on a VA-guaranteed loan.

Background

If a VA-guaranteed loan is defaulted by the veteran buyer and a foreclosure action has commenced, the VA has the option of either paying the guaranty to the mortgage holder or paying the mortgage holder the outstanding loan balance, accrued interest and charges, and the costs, such as foreclosure costs, imposed by the default. In the latter case, the VA then takes title to the property and resells it.

The VA has various methods to market these properties including providing a list of properties available for sale to brokers who desire to participate in the sale of VA-acquired properties. The VA's sale of 27,841 foreclosed properties in fiscal year 1986 would have resulted in a reduction in its inventory of such properties if property acquisitions in 3 economically-depressed areas—Denver, Muskogee, and Houston—were excluded. Nevertheless, the VA's inventory continues to exceed 21,000, far in excess of the number of homes in the VA inventory prior to the 1980's. The inability of the VA to market properties successfully has led to auction sales of hard-to-sell VA properties. While these auction sales remove hard-to-sell properties from the VA inventory, they also impose substantial losses on the Loan Guaranty Revolving Fund and may add to the factors that depress the real estate market in the communities concerned.

Committee bill

The Committee bill would require the VA to list acquired properties with real estate brokers under arrangements the VA determines to be the most appropriate and cost effective. The Committee believes that the current practice of making properties available for sale through participating brokers does not fully utilize the expertise and resources of the real estate community. Participating brokers earn a commission when they sell a VA-owned property that is less than that paid on non-VA properties. The Committee intends that under this provision of the Committee bill the VA explore alternatives to current marketing practices and that listing properties for sale with a real estate broker will provide the real estate professionals with whom the properties are listed with incentives to market the properties actively.

The requirement that listing be under conditions the Administrator determines to be appropriate and cost effective is intended to allow the VA the flexibility to market properties through other

means if listing alone would clearly not be cost-effective. It is the Committee's belief that listing properties with, and utilizing the marketing services and expertise of, private-sector real estate sales professionals would result in faster sales of VA-acquired properties, thereby reducing the cost to the LGRF of VA's property inventory and providing the LGRF with additional funds.

The Committee encourages the VA to utilize area management brokers (AMB) to improve the disposal of VA properties. AMBs—whom the VA already uses on a limited basis—are licensed real estate brokers who, on the basis of the VA's instructions, list and manage VA properties for sale in their areas. An AMB provides a centralized source of listings and related information for other brokers who market and sell the properties in the same area. AMBs generally are paid on a fee rather than commission basis, since they themselves do not sell the property. In order to promote the rapid disposition—consistent with achieving the highest possible price—of properties, the Committee directs the VA to develop incentive payments to AMBs based on how quickly and profitably properties are sold. The Committee also directs the VA to explore the possibility of working out comparable and suitable arrangements with other licensed real estate brokers, including Realtists, to continue to expand the use of its electronic bulletin boards as a marketing tool, and to take such other steps as are necessary to market its property inventory more aggressively.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Commission, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be minus \$190 million in budget authority and minus \$181 million in outlays in fiscal year 1988; minus \$175 million in budget authority and minus \$166 million in outlays in fiscal year 1989; minus \$154 million in budget authority and minus \$146 million in outlays in fiscal year 1990; minus \$47 million in budget authority and minus \$39 million in outlays in fiscal year 1991; and minus \$39 million in budget authority and minus \$31 million in outlays in fiscal year 1992—for a 5-year savings of \$605 million in budget authority and \$563 million in outlays. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:



CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

October 20, 1987

Honorable Alan Cranston
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the attached cost estimate of draft language for the Veterans' Home-Loan Program Improvements Act of 1986, for the Senate Veterans' Affairs Committee.

Should you so desire, we would be pleased to provide further details on the attached cost estimate. The staff contacts is Nina Shepherd (226-2820).

With best wishes,

Sincerely,

Edward M. Gramlich
Acting Director

cc: Honorable Frank H. Murkowski
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 20, 1987

1. BILL NUMBER: Draft

2. BILL TITLE:

The Veterans' Home-Loan Program Improvements Act of 1986.

3. BILL STATUS:

Senate Veterans' Affairs Committee Draft.

4. BILL PURPOSE:

To increase the maximum home loan guaranty offered by the Veterans Administration (VA) from \$27,500 to \$36,000, and for other purposes.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(By fiscal years, in millions of dollars)

	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
Estimated Authorization					
Level	9	9	8	8	8
Budget Authority	-190	-175	-154	-47	-39
Estimated Outlays	-181	-166	-146	-39	-31

The cost of this bill would fall in budget function 700.

Basis of Estimate

The following section-by-section cost analysis addresses only those sections of the bill that could be expected to have a significant budgetary impact.

All estimates below reflect the impact of the enactment of Public Law 100-136, which requires all vendee loans sold in the secondary mortgage market to be sold with full recourse to the government in the event of default.

Section 2(a). This section would increase from \$27,500 to \$36,000 the maximum amount of the VA guaranty on approved home-loans of veterans.

(By fiscal years, in millions of dollars)

	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
Budget Authority	-3	8	16	19	20
Estimated Outlays	-3	8	16	19	20

An increase in the guaranty ceiling would have several effects on the VA loan guaranty program. The increase would enable borrowers to obtain no-downpayment mortgages of up to \$144,000; the current maximum is \$110,000. It was estimated, based on the current distribution of loans by value, that new loans in the \$110,000 to \$144,000 range would increase the total demand for loans by about 5 percent and would increase the average cost of a new loan by about 1 percent. This would, in turn, increase origination fee receipts, resulting in the outlay reduction shown for 1988.

The guaranty increase would, however, raise the cost of all claim terminations of loans closed in 1988 or later. These higher default costs would offset the increased fee receipts in all years after 1988.

Section 2(b). This section would exempt certain VA programs from any requirement for sequestration of funds under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L.99-77) as amended by Public Law 100-119.

This provision would have no net impact on the federal budget. Since the deficit targets established by P.L.100-119 would not be changed by the provision, any required outlay reductions that are not achieved in the programs exempted by this section would have to be made elsewhere in the budget.

Section 3. This section would require the VA to furnish information on alternatives to foreclosure to veterans whose VA-guaranteed home loans are at least 60 days delinquent and to provide counseling regarding the alternatives. The program would only be authorized for a two-year test period.

(By fiscal years, in millions of dollars)

	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
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Estimated Authorization					
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Level	1	1	0	0	0
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Estimated Outlays	1	1	0	0	0
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The VA is currently receiving approximately 14,000 notices of default each month. The estimate above assumes that 30 percent of the delinquent borrowers would request some follow-up explanation or counseling after receiving from VA the information on foreclosure alternatives. A unit cost of \$1.50 was assumed for the informational mailings and an average cost of \$10 for counseling sessions.

Section 7. This section would increase, from 1.0 to 2.5 percent of the principal amount, the origination fee required on sales of VA-owned property in which the VA finances the

sale (vendee loans). The section would also prohibit the VA from financing more than 90 percent of the purchase price in such transactions.

	(By fiscal years, in millions of dollars)				
	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
Budget Authority	-76	-87	-87	-81	-70
Estimated Outlays	-76	-87	-87	-81	-70

This provision would significantly increase the amount of cash required from a buyer of a VA-owned property when the VA finances the sale. It is estimated that in 1988 vendee-financed sales would decrease by about \$90 million as a result of this provision, with only about one-third of these potential buyers switching to cash purchase of the property. This would cause a drop of about 3.5 percentage points in the percent of the property inventory that is sold each year.

Despite this decline, section 7 would increase the cash collections of the revolving fund. Approximately 2.5 percent of property sales would switch from vendee financing to cash sale, and a higher origination fee would be collected on all remaining vendee sales. The increase in collections from these two factors would more than outweigh the slow down in property sales.

Section 8. Under current law, the VA cannot finance more than 75 percent nor less than 60 percent of the sales of property that has been acquired from foreclosures of VA-guaranteed mortgages. This provision would change the limitations to not more than 60 percent nor less than 40 percent. The provision would expire on October 1, 1990.

	(By fiscal years, in millions of dollars)				
	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
Budget Authority	-111	-96	-82	16	12
Estimated Outlays	-111	-96	-82	16	12

The primary effect of this provision is that it would result in the receipt by the VA of the cash value of certain acquired properties approximately one year earlier than otherwise projected. As soon as the VA obtains clear title on an acquired property, they offer it for sale. If the property is sold for cash, the VA recovers the cash value immediately. If, however, the VA finances the sale with a vendee loan, the agency does not recover the cash value of the property until the loan is sold. The lag time in this process generally runs about a year.

Section 10. This section would require that persons assuming loans guaranteed by the VA qualify from the same credit standpoint as new veteran borrowers. Also, a fee of one-half of one percent of the principal of the assumed loan would be charged by the VA. These provisions would apply only to assumptions of loans originated more than 180 days after enactment of the bill.

These provisions would eventually reduce somewhat the likelihood of VA loans being assumed, decrease the default rate on loans that are assumed, and increase the fee collections of the revolving fund. These factors should combine to reduce the outlays of the fund. However, since the changes would only apply to the assumability of loans newly originated after enactment, it is expected that an insufficient number of assumptions would be affected during the projection period to result in a significant budget impact.

Section 11. This section would prohibit the VA from guaranteeing loans for manufactured homes in which the principal is equal to more than 95 percent of the purchase price of the property securing the loan.

(By fiscal years, in millions of dollars)

	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
Budget Authority	*	-*	-1	-1	-1
Estimated Outlays	*	-*	-1	-1	-1

The above estimate assumes that the requirement of a 5 percent downpayment on manufactured home loans would reduce demand for such loans by 20 percent. It was further assumed that the default rate on manufactured home loans would drop by approximately 15 percent. As a result, origination fee collections are estimated to fall by between \$400,000 and \$800,000 a year, and mobile home claim costs are estimated to decrease by between \$300,000 and \$1,800,000 a year during the projection period. The net outlay reduction would grow slowly in the outyears.

Section 12. This section would authorize the VA to contract for a variety of services to increase the efficiency of operation of the Loan Guaranty Revolving Fund. These services could include, among others: appraisals, loan servicing, real estate brokerage, and lender audits. The section authorizes for these contracts the appropriation of amounts equal to the origination fees paid on assumed guaranteed loans, fees in excess of one percent of the principal paid on the origination of vendee loans, plus, in 1988 and 1989 only, \$2 million. This appropriation from the collections of the revolving fund, however, could not exceed \$15 million in any fiscal year.

(By fiscal years, in millions of dollars)

	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
Estimated Authorization					
Level	10	10	8	8	8
Estimated Outlays	10	10	8	8	8

Because the new fee on assumed loans (see section 10) would only apply to assumptions of loans originated after enactment, it is estimated that collections of these fees would not be significant during the projection period. On vendee loans, for which the origination fee would be raised to 2.5 percent by section 7, amounts in excess of one percent of the principal could be appropriated for supplemental services contracts. It is estimated that approximately \$8 million would be available each year from this source. Since this is less than the specified maximum of \$15 million, it was assumed that appropriation language would be forthcoming in each year to make these amounts available. It was further assumed that the full amounts appropriated for these activities would be utilized. Outlays were estimated according to historical spending patterns for similar activities.

Section 13. This section would extend for two years the requirement that veterans and others obtaining VA-guaranteed or direct loans pay a one-time fee of one percent of the loan principal to partially offset the agency's costs.

The CBO baseline and the 1988 budget resolution assume the continuation of the fee authority through 1992. Therefore, this provision would have no effect on either of these measures of federal spending. The CBO baseline assumes that \$234 million in fees would be collected in 1988 on loans originated in that year.

Section 14. This section would allow the VA, on a two-year trial basis, to authorize certain lenders to determine the reasonable value of property for which VA-guaranteed loans are to be made. Such determinations would still be based on appraisals made by VA-approved appraisers.

(By fiscal years, in millions of dollars)

	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
Estimated Authorization					
Level	-2	-2	0	0	0
Estimated Outlays	-2	-2	0	0	0

Based on VA data, the \$2 million savings estimated above reflects the extent to which the agency would use this authority during the two-year trial. The savings would result from the reduction in VA appraisal reviews, the cost of which is charged to the General Operating Expenses account.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

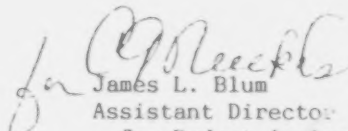
The Congressional Budget Office has determined that the budgets of state and local governments would not be directly affected by enactment of this bill.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: K.W. Shepherd (226-2820).

10. ESTIMATE APPROVED BY:


James L. Blum
Assistant Director
for Budget Analysis

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

The Committee finds that the Committee bill would not entail any significant regulation of any individuals or businesses and—except for the provision requiring in the cases of assumptions of VA-guaranteed loans that either the assumptor be determined to be creditworthy or the veteran-seller and assumptor agree to be jointly and severally liable—would not entail any significant impact on the privacy of any persons. In a case in which a determination of creditworthiness is sought, the impact on the privacy of assumptor would be of the same nature and extent as in the case of an individual applying for a new VA-guaranteed loan for the purchase of a home.

The Committee also finds that, except for the paperwork required in connection with such assumptions and the requirement for the VA to provide certain information to all veterans who are more than 90 days in default on their VA-guaranteed loans, the Committee bill would not result in any significant new paperwork. In those two circumstances, the amount of paperwork involved would be reasonable in light of the beneficial objectives of the provisions involved.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to paragraph 7 of rule XXVI of the Standing Rules of the Senate, the Committee reports that the Committee on Veterans' Affairs on July 31, 1987, voted unanimously to report favorably to the Senate in part C of title I of S. 9 certain provisions relating to the Veterans' Administration home loan program and subsequently voted unanimously to report such provisions in S. 1801. The record vote of 11-0 to report S. 9 favorably was as follows:

YEAS (11)

Alan Cranston
Spark M. Matsunaga
Dennis DeConcini
George J. Mitchell
John D. Rockefeller, IV
Bob Graham
Frank H. Murkowski
Alan K. Simpson
Strom Thurmond
Robert T. Stafford
Arlen Specter

NAYS (0)

Also during the July 31 meeting, the Committee rejected an amendment proposed by Senator Murkowski to increase from one-half of a percent to 1 percent the fee proposed in the Committee bill to be charged persons assuming VA-guaranteed loans. The record vote of 5-6 was as follows:

YEAS (5)

Frank H. Murkowski
Alan K. Simpson
Strom Thurmond
Robert T. Stafford
Arlen Specter

NAYS (6)

Alan Cranston
Spark M. Matsunaga
Dennis DeConcini
George J. Mitchell
John D. Rockefeller, IV
Bob Graham

AGENCY REPORTS

The Veterans' Administration submitted a letter dated March 24, 1987, transmitting proposed legislation (introduced by request as S. 920) to increase the VA loan fee, to authorize direct appropriations to the loan guaranty revolving fund, and for other purposes.

In response to a request by the Committee Chairman, on July 23, 1987, the VA reported its views on S. 9.

In addition, the VA's written testimony for the Committee's June 17, 1987, hearing on legislation and oversight pertaining to the VA home loan guaranty program contained the agency's views on other issues relating to provisions in the Committee bill.

The March 24 VA transmittal letter, the June 17 hearing testimony, and the July 23 agency report regarding the provisions in S. 9 relating to the VA home loan guaranty program, follow:

Veterans
Administration

EC0944

MAR 24 1987

Honorable George Bush
President of the Senate
Washington, D.C. 20515

Dear Mr. President:

Enclosed is a draft bill "To amend title 38, United States Code, to repeal provisions relating to setting the interest rate on guaranteed or insured housing loans to veterans and inspecting manufactured homes purchased by veterans, to increase the VA loan fee, to authorize direct appropriations to the loan guaranty revolving fund, and for other purposes." I request that this measure be referred to the appropriate committee and promptly enacted.

This omnibus measure, entitled the "Veterans' Housing Amendments Act of 1987," would make a number of amendments to the Veterans Administration Housing Loan Guaranty Program to reduce administrative regulation and enhance revenues.

Section 2 of the draft bill would allow the veteran and the lender to agree upon an interest rate for the home loan so the veteran can benefit from the best combination of interest rate and points. This would be accomplished by repealing the authority of the Administrator to set the maximum interest rate which veterans may pay on VA guaranteed home loans currently contained in 38 U.S.C. § 1803(c) and manufactured home loans contained in 38 U.S.C. § 1819(f). Section 2 of the draft bill also makes additional perfecting amendments.

Prior to 1966, the law contained a statutory interest ceiling on VA guaranteed housing loans. Public Law 89-358, enacted March 3, 1966, removed an exact percentage limitation on the VA interest rate, and provided instead that interest on such loans may not exceed the rate in effect for loans insured by the Secretary of Housing and Urban Development under section 203(b)(5) of the National Housing Act. In 1973, the Congress enacted Public Law 93-75 which removed the requirement that the interest on VA home loans not exceed the HUD interest rate. The 1973 amendment, which remains in effect, requires that in setting the VA interest rate "the Administrator shall consult with the Secretary of Housing and Urban Development . . . and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans

2.

Honorable George Bush

insured under . . . section 203(b) [of the National Housing Act] and on loans guaranteed or insured under . . . chapter [37 of title 38, United States Code]."

The Housing and Urban-Rural Recovery Act of 1983, Pub. L. No. 98-181, § 404, enacted November 30, 1983, repealed the authority of the Secretary of Housing and Urban Development to set interest rates on loans insured by the Secretary. Such loans may now bear interest at any rate agreed upon by the borrower and lender.

Although VA makes every effort to reflect the loan market in setting interest rates on guaranteed home loans, it is not always possible for such rates to keep exact pace with money market demands. When the cost of money is not adequately reflected by the VA interest rate, lenders are required to charge points to bring their yield into line with secondary market demand. One "point" equals 1 percent of the loan amount. The points must be paid in cash at loan closing. VA has interpreted the law as not permitting veterans to pay points, except under certain limited circumstances spelled out in 38 U.S.C. § 1803(c)(3); e.g., refinancing and home improvement loans. This is because if the veteran paid this amount he or she would, in effect, be paying an interest rate above the permitted maximum. Thus, the seller will normally absorb these costs.

Sellers who are reluctant to pay points often either refuse to sell with VA financing, or increase the selling price of their home to reflect the anticipated points. In neither instance is the veteran being benefited.

Under the draft bill, the veteran buyer, the seller, and the lender can negotiate on whether the rate, and thus the monthly payment, will be lowered in exchange for a certain number of points, and, if it is, who will pay some or all of such points. Thus, the transaction can be tailored to fit the needs and circumstances of the parties involved.

This change would be consistent with the Administration's goal of reducing Federal regulation and permitting market forces to operate.

Section 2 of the draft bill, consistent with present policy, would not authorize adjustable rate mortgages. The bill requires that the loan bear the same interest rate for the life of the loan. Nothing in the draft bill would preclude lenders from waiving collection of a portion of the interest.

3.

Honorable George Bush

This would permit "buy downs" where a builder or developer arranges for a lower interest rate for the first few years of the loan. VA currently permits buy downs.

VA estimates that enactment of section 2 of the draft bill would result in administrative cost savings of less than \$100,000 in any fiscal year.

Section 3 of the draft bill would amend section 1829 of title 38, United States Code, relating to the VA loan fee.

Presently, section 1829 imposes a fee of 1 percent of the loan amount upon veterans who obtain housing loans guaranteed, insured, or made by the Administrator under chapter 37 of title 38, United States Code, and upon persons who receive vendee loans from the Administrator in connection with the purchase of real property from the Administrator. Disabled veterans receiving compensation, or who would be entitled to compensation but for the receipt of retirement pay, and surviving spouses of veterans who died from a service-connected disability are exempt from paying this fee.

The fee is collected at the time of loan closing, and may be financed with the loan. Proceeds from the fee are deposited into the Loan Guaranty Revolving Fund (LGRF).

Pub. L. No. 89-358, which originally granted VA home loan benefits to post-Korean conflict veterans, required collection of such a fee. That provision was repealed by Pub. L. No. 91-506 in 1970. The Omnibus Budget Reconciliation Act of 1982, Pub. L. No. 97-253, § 406, reimposed a fee of one-half of 1 percent for loans to veterans closed after September 30, 1982. Authority to collect this fee was to expire September 30, 1985. The Deficit Reduction Act of 1984, Pub. L. No. 98-369, § 2511, increased the fee to 1 percent, required collection of the fee on vendee loans, and extended the fee until September 30, 1987.

Under the draft bill, on loans closed on or after June 1, 1987, the fee would be increased to 2 1/2 percent. The draft bill would also make the loan fee permanent. Vendee loan purchasers would be subject to the same fee.

Since 1978 the LGRF, which provides moneys for all loan guaranty operations except administrative expenses, has required nearly \$2 billion in additional funds through transfers (totaling \$1.3 billion) or appropriations (totaling \$0.6 billion) in order to remain solvent.

4.8

Honorable George Bush

To date in Fiscal Year 1987, \$80 million has been transferred from the Direct Loan Revolving Fund. Budget projections show that the LGRF will need another transfer of \$45 million in the latter part of the current fiscal year, and an appropriation of \$389.8 million in Fiscal Year 1988. Current estimates indicate that, if the 2 1/2 percent fee were enacted, an appropriation in Fiscal Year 1988 would not be necessary.

The VA home loan program has been and continues to be of great importance to present and former members of the Nation's Armed Forces who seek to become homeowners. We are mindful that the costs to the taxpayers of operating the program and paying claims on loans resulting in foreclosure are significant. Since the Loan Guaranty program provides a unique benefit (i.e. no down payment terms) for a select group of beneficiaries, we believe that this group should bear a portion of the cost of providing the benefit through a modest, one-time fee. This fee, if financed, would increase the average veteran's monthly mortgage payment by less than \$9.

In view of the increasing costs to the taxpayers of this program in recent years and the depletion of the LGRF, we believe increasing the fee at this time is necessary.

Section 3(c) of the draft bill increases the guaranty amount from the present \$27,500 only with respect to loans where the veteran is paying the fee in full with the proceeds of the loan. Although the law does not limit the amount a veteran may borrow, experience shows that the secondary market normally demands 25 percent protection on Government-backed home loans. Thus, the current \$27,500 guaranty would support a loan of \$110,000. Since the draft bill is increasing the loan fee by 1.5 percentage points, we are proposing to increase the guaranty to \$27,915 in order to permit a 1.5 percent increase in the effective maximum loan.

Fairness requires that purchasers of VA acquired properties who obtain financing from VA (vendee loans) be required to bear costs which are comparable to those imposed upon veterans using their earned benefits. Losses associated with vendee loans are higher than losses associated with guaranteed loans because: (a) default rates are significantly greater; and (b) vendee loans are not a veterans' benefit (they are available to veterans and nonveterans alike).

5.

Honorable George Bush

Enactment of section 3 of the draft bill would produce the following savings:

<u>Fiscal Year</u>	<u>(\$000) Savings</u>
1987	91,000
1988	629,900
1989	592,800
1990	534,000
1991	456,500
1992	412,500
Total	2,716,700

Section 4 of the draft bill would authorize direct appropriations to the Loan Guaranty Revolving Fund.

As explained above, the LGRF is available to the Administrator for all loan guaranty operations under chapter 37 of title 38, United States Code, except administrative expenses. Until recently, direct appropriations to the LGRF have not been necessary. Although enactment of the loan fee increase proposed in section 3 of the draft bill should virtually eliminate the need for further appropriations, such action may nonetheless be necessary in the future.

Section 1824(c) of title 38, United States Code, provides three sources of money for the LGRF; i.e., transfer of appropriations from readjustment benefits, proceeds from the loan fee (38 U.S.C. § 1829), and collections from the operation of the program. Such collections include cash sales of real property, the proceeds from vendee loan sales, and principal and interest payments on unsold vendee loans. A fourth source, provided by 38 U.S.C. § 1823(d), is transfers from the Direct Loan Revolving Fund. If these sources are not able to provide sufficient funds for the needs of the LGRF, an appropriation becomes necessary for the Government to be able to honor its commitments to loan holders under the guaranty.

The two-step appropriation procedure currently in the law; i.e., appropriation to the readjustment benefits account, then transfer of the funds into the LGRF, is unnecessarily complicated and tends to obscure the real financial requirements of operating the LGRF. Since appropriations may again be needed in the future, we believe section 1824 should be amended to authorize direct appropriations into the LGRF.

6.

Honorable George Bush

To permit flexibility in managing the needs of the LGRF, the bill would retain in the law the authority to transfer readjustment benefits appropriations to the LGRF. VA would only use this transfer authority to alleviate temporary short-falls in the fund, enabling the Administrator to continue to pay guaranty obligations. Since the transfer authority is intended only as a backup, with proceeds of the loan fee, revenues from operations, and direct appropriations being the primary sources of funding for the LGRF, the draft bill is limiting such transfers to \$75 million in any fiscal year. Any amounts transferred would have to be repaid to the appropriation account for readjustment benefits not later than the time the LGRF received its appropriations for the succeeding fiscal year.

Enacting section 4 of the draft bill would not involve any additional cost.

Section 5 of the draft bill would repeal certain requirements of the VA manufactured home loan program that VA believes to be no longer necessary.

Section 5(a)(1) of the draft bill would delete the requirement that VA standards for manufactured home sites include requirements to encourage the development of attractive residential areas which will be free from and not substantially contribute to adverse scenic or environmental conditions.

Currently, 38 U.S.C. § 1819(h)(1) requires that, as part of the standards established in approving manufactured home sites, VA take into consideration scenic or environmental conditions. Since these provisions were enacted, many beneficial changes have taken place with respect to planning and construction standards for manufactured home parks and subdivisions. State and local regulatory agencies generally have standards for licensing, occupancy, and use which prevent overcrowding and other adverse conditions, including those which affect the scenic and environmental state of the manufactured home sites. VA's standards only serve to duplicate existing local requirements and complicate the application process. Accordingly, VA recommends eliminating these requirements.

Section 5(a)(11) of the draft bill would repeal the requirement that VA inspect the manufacturing process of manufactured homes and conduct on-site inspections of such units purchased with VA financing. The bill would further provide that any manufactured home unit that properly displays

7.

Honorable George Bush

a certificate of conformity with all applicable Federal manufactured home construction and safety standards would be eligible for purchase with VA guaranteed loans.

Currently, 38 U.S.C. § 1819(h)(2)(A) requires the VA to make inspections of the manufacturing process of manufactured homes and to perform random on-site inspections of manufactured homes purchased with a VA guaranteed loan. The purpose of the inspections of manufacturing plants is to insure that manufacturers comply with the standards for planning, construction, and general acceptability of manufactured homes required to be prescribed by the Administrator under 38 U.S.C. § 1819(h)(1). The on-site inspections were mainly required to judge the effectiveness of the manufactured home loan program.

In 1970 when the Congress enacted the VA manufactured home loan program, there were no comprehensive regulations insuring the safety and fitness of manufactured housing. Four years later, however, the Congress enacted the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401-5426. That statute requires the Secretary of Housing and Urban Development, in consultation with the Consumer Product Safety Commission, to establish Federal manufactured home construction and safety standards. Generally, all new manufactured homes sold in interstate or foreign commerce must comply with these Federal standards. Units are required to have permanently affixed to them a tag or label certifying their compliance with such standards. The Secretary of HUD is authorized to conduct necessary inspections to enforce the Federal standards.

VA believes that the comprehensive scheme established under the National Manufactured Housing Construction and Safety Standards Act of 1974 is sufficient to insure that new manufactured homes purchased by veterans with VA guaranteed loans will be properly built and suitable for occupancy and use.

Section 1819(h)(2)(B) of title 38, enacted as part of Pub. L. No. 95-476 in 1978, permits VA to delegate to HUD the responsibility for conducting manufacturing plant inspections. VA has entered into an agreement with HUD under this provision of the law, and has made such a delegation. VA believes it is unnecessary to retain the provision in the law for VA to conduct inspections and the provision should be eliminated.

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VA further believes on-site inspections are likewise unnecessary. Such inspections might have been useful when the law was first enacted to aid in evaluation of this program. Over 15 years of experience with the manufactured home loan program has demonstrated the viability of the program. Each of the states where VA has guaranteed manufactured housing loans have and enforce planning and zoning laws which adequately address our concerns. Additionally, VA's procedures require lenders to certify that the unit has been properly installed on an approved site, and that the veteran receives everything for which he or she has paid. As these inspections are no longer necessary, they should be eliminated.

The draft bill also makes perfecting amendments consistent with the elimination of such inspection.

In addition, the draft bill proposes one technical amendment to the manufactured home loan program. Section 1819(j) permits VA to suspend from participation in the VA program a manufacturer of manufactured homes who refuses to permit inspections, is unwilling or unable to comply with its warranty obligations, or if the units fail to conform to VA standards. This section does not specifically contain the additional "catch all" grounds for suspension of engaging in practices prejudicial to veterans or to the Government. Provisions of the law applicable to suspending other loan guaranty program participants authorize suspension for such prejudicial practices. See 38 U.S.C. § 1804(b) and (d) and 1819(k). In addition to removing reference to the inspections which the draft bill proposes to eliminate, engaging in actions unfair or prejudicial to veterans or the Government would be added as a basis for suspension. We believe this technical correction is desirable to make clear that VA has the authority to suspend manufacturers who engage in such practices.

Section 6 of the draft bill would repeal the requirement for a statement of local officials regarding the feasibility of public or community water and sewerage systems as a condition to the VA guaranty of loans for the purchase of newly constructed homes.

Currently, under 38 U.S.C. § 1804(e), the VA may not guarantee loans for newly constructed residences in areas where local officials certify that the establishment of public or community water and sewerage systems is economically feasible unless the dwellings are served by such systems. Since enactment of this section in 1965, conditions have changed

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significantly. Federal, State, and local laws now adequately address the subject of individual water and sewerage systems as an alternative to public and community water systems. These certification requirements, place an additional burden on local officials and program participants without materially benefiting the veteran.

Enactment of this proposal would result in administrative savings of less than \$100,000 in any fiscal year.

Section 7 of the draft bill would specifically authorize the Administrator of Veterans' Affairs to establish an appraisal system whereby appraisal reports completed by VA designated fee appraisers would be received and reviewed by approved lenders without VA staff involvement. Presently, 38 U.S.C. § 1810(b)(5) provides that the loan amount may not exceed the reasonable value of the property as determined by the Administrator. This proposal would amend 38 U.S.C. § 1831 to permit the Administrator to establish a system whereby approved lenders would review the appraisal reports and notify the veterans of the value determination. This system would be similar to the HUD direct endorsement program which has been satisfactory since its inception in 1983. Under the proposed system, fee appraisers would continue to be randomly selected by VA. The appraisers' reports would then be provided directly to approved lenders rather than VA. The lender would independently review the appraisals and determine the maximum permissible loan on the basis of that review. Prior to being included in this system, lenders would have to apply and be required to meet criteria established by the Administrator, as they presently do, in order to process loans on the automatic basis. This system would provide more timely service to veterans and would allow field stations to operate more effectively under current staffing constraints.

Section 8(a) of the draft bill would eliminate the sunset for the claim payment and acquired properties provisions in subsections (c) and (d) of section 1816 of title 38, United States Code. These provisions, which were added by section 2512(a)(2) of the Deficit Reduction Act of 1984 (DRA), Pub. L. No. 98-369, determine the VA's claim liability under a home loan guaranty, when the VA may acquire the property which secured the loan, and how many properties the VA may sell with vendee financing. Currently, section 2515(c)(2) of the DRA provides that subsections (c) and (d) of 38 U.S.C. § 1816 cease to be effective on October 1, 1987.

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Section 1816(c) of title 38 requires the VA to establish a net value for the security property. "Net value" is the fair market value minus costs the VA would incur, if it acquired the property, to acquire, manage, and dispose of such property. Generally, the VA may acquire the property if the net value exceeds the unguaranteed portion of the loan, and the loan holder acquires the property for the lesser of net value or the veteran's total indebtedness. In such cases, net value also represents a minimum amount the loan holder must credit to the veteran's indebtedness in determining the VA's guaranty liability. This provision has provided a useful framework to determine when it is cost-effective either to acquire a VA guaranteed property at foreclosure or to pay the guaranty amount.

Under section 1816(d) of title 38, the VA must sell at least 60 percent, but not more than 75 percent of acquired property with vendee financing. These limits would be reduced by section 8(b) of the draft bill so that VA must sell at least 40 percent, but not more than 60 percent of acquired properties with vendee financing.

The DRA amendments were enacted to (1) reduce the Government's losses on foreclosure of VA guaranteed loans and the subsequent resale of VA acquired properties; (2) enable the VA to convert loan and property assets into liquid assets for the Loan Guaranty Revolving Fund; and (3) insure that the VA home loan program would continue to provide a viable benefit for veterans and lenders. Experience has shown that these procedures have worked well. The basic framework created by the DRA is sound and should be continued to reduce VA's future contingent liability on vendee loans.

Enactment of section 8 of the draft bill would result in administrative savings of less than \$100,000 in any fiscal year, and would result in the following benefits savings:

<u>Fiscal Year</u>	<u>(\$000) Savings</u>
1988	29,000
1989	59,325
1990	67,200
1991	69,300
1992	66,500
Total	291,325

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Section 9 of the draft bill provides that all amendments will take effect October 1, 1987, except for the increased loan fee which, as noted above, applies to loans closed on or after June 1, 1987, and the authority to transfer funds to the Loan Guaranty Revolving Fund, which would take effect upon enactment.

The Office of Management and Budget advises that it has no objection to the submission of the draft legislation and that its enactment would be in accord with the program of the President.

Sincerely,



THOMAS K. TURNAGE
Administrator

OFFICIAL COMMUNICATION
RECEIVED IN THE OFFICE OF
THE PRESIDENT OF THE SENATE
DATE RECEIVED 25 MAR 1987
TIME RECEIVED _____
DATE DELIVERED _____

A BILL

To amend title 38, United States Code, to repeal provisions relating to setting the interest rate on guaranteed or insured housing loans to veterans and inspecting manufactured homes purchased by veterans, to increase the VA loan fee, to authorize direct appropriations to the loan guaranty revolving fund, and for other purposes.

Be it enacted by the Senate and House of Representatives
of the United States of America in Congress assembled,

That this Act may be cited as the "Veterans' Housing Amendments Act of 1987".

NEGOTIATED INTEREST RATES

SEC. 2. Chapter 37 of title 38, United States Code, is amended by--

(a) Striking out section 1803(c) in its entirety and inserting in lieu thereof:

"(c) Loans guaranteed or insured under this chapter shall be payable on such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Administrator issued pursuant to this chapter. These loans shall bear interest at such rate as may be agreed upon by the veteran and the lender provided, however, that such loans shall bear the same interest rate for the life of the loan.";

(b) Striking out in section 1810(e)(1)(C) "permitted pursuant to section 1803(c)(3)(A) of this title";

2.

(c) Striking out in section 1811(c)(1) "area, at an interest rate not in excess of the rate authorized for guaranteed home loans or manufactured home loans, as appropriate," and inserting in lieu thereof "area";

(d) Striking out in section 1811(d)(1) "not to exceed the rate authorized for guaranteed home loans or manufactured home loans, as appropriate,";

(e) Striking out in section 1819(a)(4)(A)(iii) "permitted pursuant to section 1803(c)(3)(A) of this title";

(f) Inserting "and" immediately after the semicolon at the end of section 1819(e)(5);

(g) Striking out in section 1819(e)(6) "regulation; and" and inserting in lieu thereof "regulation.";

(h) Striking out section 1819(e)(7) in its entirety; and

(i) Striking out section 1819(f) in its entirety, and inserting in lieu thereof:

"(f) Loans guaranteed under this section shall bear interest at such rate as may be agreed upon by the veteran and the lender provided, however, that such loans shall bear the same interest rate for the life of the loan.".

AMENDMENTS RELATING TO VA LOAN FEE

SEC. 3. (a) Section 1829 of title 38, United States Code, is amended by--

3.

(1) striking out in subsection (a) "one percent" and inserting in lieu thereof "2 1/2 percent"; and

(2) striking out subsection (c) in its entirety.

(b) Section 1810(c) of title 38, United States Code, is amended by--

(1) striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the"; and

(2) adding at the end thereof the following new paragraph:

"(2) If a veteran pays the full amount of the fee required by section 1829 of this title from the proceeds of the loan, then the amount of guaranty entitlement available to that veteran under this section shall be \$27,915, less such entitlement as may have been used previously under this chapter. A veteran may not use any entitlement under this paragraph unless the veteran has entitlement under paragraph (1) of this subsection available for use."

(c) Section 1811(d)(2)(A) is amended by striking out "1810" and inserting in lieu thereof "1810(c)(1)".

4.

AUTHORIZE DIRECT APPROPRIATION

SEC. 4. Section 1824 of title 38, United States Code, is amended by--

(a) striking out in clause (1) of subsection (c) "such amounts as may be necessary" and inserting in lieu thereof "not to exceed \$75,000,000 per fiscal year";

(b) striking out in subsection (c) "and (3)" and inserting in lieu thereof "(3) amounts specified in appropriation acts, and (4)";

(c) adding at the end of subsection (c) "Any amounts transferred pursuant to clause (1) of this subsection shall be repaid to the appropriation account for readjustment benefits from amounts available, including appropriations to the Fund, no later than the time the Fund's appropriation is available for the succeeding fiscal year."; and

(d) adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated from time to time such amounts as may be necessary to provide capital for the Fund.".

5.

REPEAL CERTAIN MANUFACTURED HOME LOAN REQUIREMENTS

SEC. 5. (a) Section 1819(h) of title 38, United States Code, is amended by--

- (1) striking out the last sentence of paragraph (1); and
- (11) striking out paragraph (2) in its entirety, and inserting in lieu thereof:

"(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5415) shall be deemed to meet the standards required by paragraph (1) of this subsection."

(b) Section 1819(j) of title 38, United States Code, is amended by--

- (1) striking out "refuses to permit the inspections provided for in subsection (h) of this section; or in the case of manufactured homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of manufactured homes"; and

(2) striking out "warranty." and inserting in lieu thereof "warranty; or in the case of manufactured homes which are determined by the Administrator not to conform to the standards provided for in subsection (h) of this

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section; or in the case of a manufacturer who has engaged in procedures or practices determined by the Administrator to be unfair or prejudicial to veterans or to the Government."

(c) Section 1819(1) of title 38, United States Code, is amended by striking out "the results of inspections required by subsection (h) of this section,".

PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS

SEC. 6. Section 1804 of title 38, United States Code, is amended by striking out section (e) in its entirety.

LENDER REVIEW OF APPRAISALS

SEC. 7. (a) Section 1831 of title 38, United States Code, is amended by--

(i) striking out in subsection (c) "The Administrator shall, upon request," and inserting in lieu thereof, "Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. The Administrator shall then determine the reasonable value of the property for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall";

(ii) striking out in subsection (d) "lender--" and inserting in lieu thereof, "lender (other than a lender described by subsection (f) of this section)--"; and

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(111) Inserting at the end thereof the following new subsection:

"(f) The Administrator may, in accordance with standards and procedures established by the Administrator, authorize certain lenders to determine the reasonable value of the property. In such a case, the appraiser selected by the Administrator pursuant to subsection (b) of this section shall forward the appraisal report directly to the lender for review."

(b) Section 1810(b) of title 38, United States Code, is amended by--

(1) striking out in paragraph (5) "by the Administrator;" and inserting in lieu thereof, "pursuant to section 1831 of this title;"; and

(11) striking out the final sentence thereof.

CLAIM PAYMENT AND ACQUIRED PROPERTIES PROCEDURES

SEC. 8. (a) Section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369) is amended by striking out paragraph (2) in its entirety, and inserting in lieu thereof:

"(2) [Reserved]."

(b) Section 1816(d)(1) of title 38, United States Code, is amended by striking out "75 percent, nor less than

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60 percent," and inserting in lieu thereof, "60 percent, nor less than 40 percent,".

EFFECTIVE DATES

SEC. 9. (a) The amendments made by sections 2, 5, 6, 7, and 8 of this Act shall take effect October 1, 1987.

(b) The amendments made by section 3 of this Act shall apply only to loans closed on or after June 1, 1987.

(c) The amendments made by section 4 of this Act shall take effect upon enactment of this Act.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420



• JUL 23 1987

Honorable Alan Cranston
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to respond to your request for a report on S. 9, 100th Congress, entitled "Service-Disabled Veterans' Benefits Improvement Act of 1987."

For reasons that follow, the Veterans Administration (VA) opposes enactment of S. 9.

The measure, if enacted, primarily would provide for increases in rates of disability compensation for veterans, including the special clothing allowance for certain veterans severely disabled due to service-connected disability, and dependency and indemnity compensation (DIC) for veterans' surviving spouses and children. Further, it would expand eligibility for certain educational and rehabilitation assistance to veterans and other eligible persons with drug or alcohol abuse disabilities; increase the maximum home-loan guaranty; adjust housing, automobile, and burial assistance programs; and extend and establish certain exemptions from sequestration under "Gramm-Rudman-Hollings."

DISABILITY AND DEATH BENEFITS

Section 2 of the bill would, effective December 1, 1987, index rates of disability compensation for veterans and DIC for surviving spouses and children to the automatic cost-of-living adjustment (COLA) to take effect for social security benefits on December 1, 1987. This would provide an estimated increase in these rates by 4.2 percent. Title I of our draft bill, which you introduced at our request on April 7 as S. 940, would, if enacted, accomplish the same purpose, though the approach differs. Instead of indexing these benefit rates to this year's social security COLA, as proposed by S. 9, S. 940 would directly index them to the increase in the Consumer Price Index. Additionally, S. 940 would provide for the automatic future annual indexing of these rates to annual CPI increases, a feature not contained in S. 9.

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Disability compensation benefits are payable under chapter 11 of title 38 to provide monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. Rates of compensation vary with the degrees of disability demonstrated, and additional compensation is payable for dependents if the veteran's disability is rated 30 percent or more disabling.

Dependency and indemnity compensation benefits are payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service-connected. Payments at DIC rates may also be made if a veteran's death was not service-connected but the veteran was rated totally disabled for a specified period prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over the age of 18 who become helpless before reaching that age may receive DIC, as may those ages 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC in the child's own right.

The administration of the disability compensation and DIC programs is one of the VA's most important missions. We recognize a duty to recommend periodic adjustments in monthly rates as economic conditions change. In recent years, compensation adjustments have generally been keyed to indexed COLA's in Social Security and VA pension. However, these adjustments have not been automatic. Rather, they have been accomplished by the enactment of separate public laws designed for that purpose, the last being Public Law No. 99-576 (1986). Since 1973, legislation has been enacted every year but one (1983) granting increases in these benefits to compensate for increases in the cost of living. We have consistently supported these adjustments.

The Administration strongly supports COLA's based upon actual increases in the cost of living. However, we believe the policy evident in S. 9 may best be effectuated by legislation that would provide for an automatic annual increase in compensation rates indexed to increases in the CPI. Tying compensation and DIC rates to the CPI would assure veterans and their survivors that they would receive full increases, commensurate with inflation, in a timely manner. It would also liberate Congress from the routine of regularly considering new veterans' COLA legislation, as it has been required to do virtually every year for over a decade and twice in the same year in one instance.

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ADAPTED HOUSING GRANTS AND BURIAL ALLOWANCES

Section 3 of S. 9 would amend sections 802(a) and (b) of title 38 by increasing from \$35,500 to \$40,000 and from \$6,000 to \$6,775, respectively, the maximum grant for qualifying veterans to acquire or adapt housing units so as to accommodate their particular disabilities. The specially adapted housing grant under section 802(a) of title 38 is limited to 50 percent of the total cost of the house. Generally, it is designed to assist veterans who are wheelchair-bound. The section 802(b) grant, which is limited to \$6,000, is to assist veterans who are blind or have lost or lost the use of both hands.

The specially adapted housing grant now provided by section 802(a), originally set at \$10,000 in 1948 by Public Law No. 80-702, has been increased by various public laws thereafter. The grant was last increased, to the present \$35,500, in 1985 by Public Law No. 98-543. The grant is generally computed at 50% of the cost to the veteran of a housing unit and the necessary land upon which it is situated, not to exceed \$35,500. In FY 1986, when the median cost for a specially adapted house was \$93,420, the maximum grant provided a veteran with 38 percent of the funds necessary to obtain a specially adapted house.

Section 4 of the bill proposes to amend section 907 of title 38 so as to increase the burial allowance for veterans who die as the result of service-connected disabilities, from \$1,100 to \$2,250, effective October 1, 1987. This benefit was last increased in 1978, by Pub. L. No. 95-479.

The VA recognizes a duty to consider periodic adjustments in the maximum payments available under these important programs to keep pace with changes in the cost of the underlying items.

Because benefit levels of the specially adapted housing grant were increased as recently as 1985, we cannot support adjusting these levels further. Additionally, we do not support raising the maximum burial benefit for service-connected deaths.

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EDUCATIONAL AND REHABILITATION ASSISTANCE

Section 5 of S. 9 would extend the eligibility period for an eligible veteran under chapters 30, 31, 32, and 34 of title 38, and for an eligible spouse or surviving spouse under chapter 35, by proposing new criteria for a person who has a history of dependence on or abuse of drugs or alcohol. Such a person would be eligible for an extension of the training period within which to receive Veterans Administration education or rehabilitation benefits if the individual had received recognized treatment or participated in a program of rehabilitation, and the condition is under sufficient control to enable that person to pursue training, in compliance with standards to be set out in Veterans Administration regulations.

An extension would be granted if an application is received in the Veterans Administration within one year after whichever of the following last occurs: (1) the last date of the applicable delimiting period, (2) the termination of the last period of treatment or rehabilitation, or (3) the date on which applicable final regulations are published in the Federal Register. For the purposes of this legislation, the 10-year delimiting period for education programs and the 12-year basic eligibility period under the vocational rehabilitation program would not run during the lesser of (1) the period in which the person is receiving treatment or participating in a program of rehabilitation, plus any additional time the individual was prevented by the condition from initiating or completing a program of education, or (2) four years.

When an extension is granted, the delimiting or basic eligibility period applicable to the individual would again commence running on the first day after the condition is sufficiently under control to enable the individual to pursue a program of education, or the day after the fourth year of the extension, whichever first occurs.

We are not convinced that, among the various disabilities which can result from one's own willful misconduct, there is anything so different about alcoholism and drug dependence as to warrant their preferred treatment in determining educational-assistance eligibility. Furthermore, any rationalizations offered for this preferred treatment in the context of educational assistance could apply as well with respect to other benefit eligibilities. We, therefore, oppose any easing of our traditional position with regard to the adequacy of current delimiting periods.

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Section 5 of S. 9 would also provide for new guidelines to be set out in Veterans Administration regulations to determine when it is suitable for a veteran or eligible dependent, with an alcohol or drug dependency disability, to commence or renew a program of education and receive Veterans Administration benefits. Due to the nature of these conditions, however, we believe it would be extremely difficult to develop any generally acceptable, useful guidelines. There are inherent problems in determining whether the claimed condition made training infeasible, the duration of any period of infeasibility for training, and whether the cause of such infeasibility found has been removed, enabling beneficial use of any extension provided. During the period of claimed incapacity due to substance usage, the veteran would not necessarily have been in contact with any health care professional or self-help group. Thus, there very likely may be no substantial, credible evidence to establish that training was not possible for long periods of time due to an alcohol or drug condition.

Some requests for extensions have claimed incapacitation for educational pursuit due to alcoholism during the entire 10-year delimiting period. There may be no method of adequately confirming such a contention. Adjudicating such a claim could mean resolution of extremely difficult questions of proof.

There remains a lack of consensus in the medical community as to exactly what symptoms represent chronic alcoholism, alcohol abuse, problem drinking, acute alcoholism, and other commonly used labels. Furthermore, it could still be extremely difficult to distinguish periodic excessive drinking or drug-taking episodes, which may not actually result in disablement, from habitual inappropriate use of alcohol or drugs which might impair educational pursuit for a substantial period of time.

The question of whether the claimant has sufficiently recovered from the claimed impairment to make productive use of benefits during an extension may also be problematic. There is a large body of medical opinion, for instance, which holds that recovery from alcoholism or drug dependence is not possible: even though the problem can be controlled through self-help or medication maintenance, the possibility of recurrence is always present.

Veterans eligible for educational assistance under the non-contributory G.I. Bill (chapter 34 program) have a limited time within which to use their remaining entitlement. The law, 38 U.S.C. § 1662(a)(3)(D), currently provides that no educational assistance allowance under chapter 34 may be provided after

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December 31, 1989. Consequently, under this proposal, any extension which would go beyond the termination date of the chapter 34 program would be of no effect.

Section 5(b) of S. 9 would provide the same extension of the period of eligibility for the vocational rehabilitation program under chapter 31 as is proposed for eligible veterans under other Veterans Administration education programs affected by this section. Alcohol or drug dependence or abuse conditions are considered in determining entitlement to vocational rehabilitation services and the duration of the period during which these services may be furnished. We believe these provisions give due consideration to the factors described above and the proposed changes are not needed.

Under chapter 31 a veteran must be found to have an employment handicap which impairs his or her ability to prepare for, obtain, or retain employment consistent with his or her abilities and interests. Current regulations provide for consideration of alcoholism and drug abuse on the same basis as any other nonservice-connected disability in determining whether an impairment which causes an employment handicap exists. If a veteran's situation meets all of the conditions for a finding of employment handicap, the Veterans Administration must then determine if the veteran is within his or her period of eligibility. A veteran found to have an employment handicap has a 12-year period of basic eligibility. This basic period of eligibility may be adjusted or extended under certain conditions.

One of the conditions under which a veteran's basic 12-year period of eligibility may be adjusted is contained in subsection 1503(b)(1) of title 38. That subsection provides that the basic period of eligibility shall not run during any period within which the veteran is prevented from participating in a vocational rehabilitation program because of a medical condition which made training infeasible during all or part of the period of eligibility. This provision is administered in the same manner as similar provisions for extension of the period of eligibility under other Veterans Administration education programs. Accordingly, extensions of the period of eligibility may not be authorized because of an alcohol or drug dependence or abuse condition under this subsection.

Under another provision, subsection 1503(c) of title 38, the 12-year period of eligibility may be extended for the period needed to provide vocational rehabilitation if the veteran is found to have a serious employment handicap. The effects of

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alcohol or drug dependence or abuse currently are considered, in the same manner as other non-service-connected disabilities, in determining whether an extension is needed in such cases.

We believe that the existing chapter 31 provisions for considering alcohol or drug dependence or abuse conditions in determining a veteran's basic entitlement to services and need for extension of the period of eligibility for veterans with a serious employment handicap are sufficient, allowing appropriate consideration of these factors from a rehabilitation perspective.

HOME-LOAN GUARANTY PROGRAM

Section 6 of S. 9 proposes to increase the guaranty for VA-guaranteed loans from \$27,500 to \$36,000. We do not believe that an increase in the guaranty is necessary. The present guaranty of \$27,500 is sufficient to support no-downpayment loans of up to \$110,000 for sale in the secondary mortgage market. The average VA loan amount in FY 1986 was \$70,912. Therefore, the present \$27,500 maximum entitlement was sufficient to provide a 38.78 percent guaranty on the average loan, which is well in excess of the 25 percent coverage required in the secondary market.

AUTOMOBILE ASSISTANCE ALLOWANCE

Section 7 of the bill proposes to increase the automobile allowance for severely service-disabled veterans. The allowance would increase from \$5,000 to \$5,530, effective October 1, 1987. The last increase in the amount of the allowance was made in 1985, by Pub. L. No. 98-543. As with the other important programs discussed, the VA recognizes a duty to consider periodic adjustments in the maximum payments available under this program to keep pace with the changes in the costs of underlying items. However, because this benefit was last increased in 1985, we cannot support an increase in the automobile allowance.

EFFECTIVE DATES

Sections 3 through 7 of the bill would be effective October 1, 1987.

EXEMPTIONS FROM SEQUESTRATION

Section 8 of S. 9 would permanently exempt benefits under chapters 31 and 35 from sequestration under the provisions of part

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C of the Balanced Budget and Emergency Deficit Control Act of 1985 ("Gramm-Rudman-Hollings"). Chapters 31 and 35 authorize the vocational rehabilitation program and the survivors' and dependents' educational assistance programs, respectively. Public Law No. 99-576 provided exemption from sequestration for these benefits for fiscal year 1987 only. Section 8 of S. 9 would also exempt the loan guaranty program from sequestration.

The balanced-budget Act was a courageous attempt by the Congress to reduce Federal deficits that adversely affect all Americans, veterans included. The Congress bound itself to either adopt budget resolutions that will eventually eliminate the deficit or, failing that, to authorize broad sequestrations of funds to assure that Federal outlays do not exceed specified targets. While it was hoped that future sequestrations would not be necessary, the framers of the Act also realized that should automatic cuts be required they should be as broad (and therefore as shallow) as possible. Protections were included for VA compensation and pension recipients, whose very sustenance may depend upon their monthly benefits, and for overall VA health-care expenditures. However, with some other exceptions (most notably, Social Security) the cuts would be "across the board."

Public support for this plan is in large measure attributable to the breadth of programs subject to sequestration. As long as any resulting dislocation is widely shared, this much-deserved support will remain strong. The current exemptions for VA benefits and services already place disabled veterans and their survivors in a deservedly preferred category. In view of the need to maintain broad support of the program designed to control deficit spending, the Administration opposes any further exemptions for veterans' programs.

Section 8(b)(2)(A) of the bill would make part of section 601(a) of Public Law 99-576 effective retroactively to include Fiscal Year 1986. Section 601(a), among other things, exempted the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund (Activities Fund), established by section 618(c) of title 38, United States Code, and the Veteran's Canteen Service (VCS) revolving fund, established by section 4204 of title 38, from any sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (Deficit Control Act) or any other law. That provision of Public Law

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99-576 was not effective until the 1987 Fiscal Year. Section 8(b)(2)(A) would cost the Government \$100,000 to repay the monies sequestered from the Activities Fund in FY 1986 and \$8.104 million to repay the monies sequestered from the Revolving Fund in FY 1986.

We cannot support the retroactive exemption proposed by S. 9. The belated return of the sequestered funds to these accounts is not justified because these accounts do not need the funds, it would increase the deficit, and it would set a bad precedent for other sequestered funds.

If S. 9 were to be enacted, the first 5-year cost estimates and pertinent statistical projections for the compensation and DIC rate increases provided in section 2 are as follows:

<u>Fiscal Year</u>	<u>COLA</u>	<u>Cost (\$000)</u>
1988	4.2%	\$ 353,900
1989	--	423,100
1990	--	421,800
1991	--	420,100
1992	--	418,200
		<u>\$2,037,100</u>

If, on the other hand, the VA's draft bill (S. 940) were to be enacted, automatically providing annual increases in the rates for these benefits to correspond to the annual CPI increases, the compounded 5-year cost estimates and COLA projections are as follows:

<u>Fiscal Year</u>	<u>COLA's</u>	<u>Cost (\$000)</u>
1988	4.2%	\$ 353,900
1989	4.4%	804,400
1990	4.1%	1,249,400
1991	3.7%	1,660,800
1992	3.1%	2,017,400
		<u>\$6,085,900</u>

If S. 9 were to be enacted, the first 5-year cost estimates and pertinent statistical projections for the remaining sections of the bill are as follows:

10.

Honorable Alan Cranston

Section 3, Increased Specially Adapted Housing Grant

<u>Fiscal Year</u>	<u>Affected Grants</u>	<u>Cost (\$000)</u>
1988	425	\$1,670
1989	400	1,577
1990	365	1,438
1991	330	1,299
1992	300	1,164
		<u>\$7,148</u>

Section 4, Increased Maximum Burial and Funeral Allowances (Service-connected Deaths)

<u>Fiscal Year</u>	<u>Burial Allowances</u>	<u>Cost (\$000)</u>
1988	8,700	\$10,000
1989	8,700	10,000
1990	8,700	10,000
1991	8,700	10,000
1992	8,700	10,000
		<u>\$50,000</u>

Section 5, Tolling of Education and Rehabilitation Delimiting Dates (Incapacity Due to Drug and Alcohol Use)

There would be little or no cost for this proposal.

Section 6, Increase in Maximum Home Loan Guaranty

<u>Fiscal Year</u>	<u>Claims Affected</u>	<u>Cost (\$000)</u>
1988	59	\$ 374
1989	678	4,305
1990	1,216	7,722
1991	2,283	14,497
1992	2,668	16,940
		<u>\$43,838</u>

Section 7, Increase in Maximum Automobile Grant

<u>Fiscal Year</u>	<u>Affected Grants</u>	<u>Cost (\$000)</u>
1988	750	\$ 398
1989	700	371
1990	600	318
1991	500	265
1992	400	212
		<u>\$1,564</u>

11.

Honorable Alan Cranston

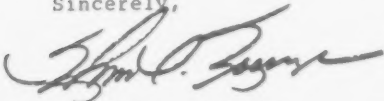
Section 8, Exemption of Programs from Sequestration

We are unable to estimate the cost of this proposal. (There is no sequestration order currently in effect.) However, as to section 8(b)(2)(A), the cost would be the one-time return of the \$100,000 to the Activities Fund and \$8.104 million to the VCS Revolving Fund.

In view of the foregoing, while we support certain features of the bill, we are unable to support S. 9 in its present form.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on S. 9 to the Congress.

Sincerely,

A handwritten signature in dark ink, appearing to read "Thomas K. Turnage", written in a cursive style.

THOMAS K. TURNAGE
Administrator

STATEMENT OF R. J. VOGEL
CHIEF BENEFITS DIRECTOR
VETERANS ADMINISTRATION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
JUNE 17, 1987

Mr. Chairman and Members of the Committee:

It is a pleasure to appear before you this morning to discuss the operation of the Veterans Administration's housing program.

First Mr. Chairman, I would like to bring to your attention a significant milestone for the VA Loan Guaranty Program. On March 6, 1987, VA guaranteed the 12 millionth home loan. In a ceremony in Phoenix, Arizona, Deputy Administrator of Veterans Affairs, Thomas Harvey, presented the keys to their new home to 29-year-old U.S. Army veteran, Jesse M. Giron, and his wife.

Next, Mr. Chairman, I will bring you up-to-date on the current activity of the Loan Guaranty Program. The interest rate on VA guaranteed home loans has remained within the 8-1/2 to 10 percent range for the past year. The current rate of 10 percent has been in effect since May 11, 1987. As you

specifically requested information on recent rate increases, I wish to assure you that decisions to increase the VA maximum interest rate are never taken lightly. The increases in the VA maximum rate to 9-1/2 percent effective April 13, 1987, and to 10 percent effective May 11, 1987 were taken to assure an adequate supply of funds for VA loans. These increases were made only after clear recognition of an upward trend in the market. As always, VA follows the market, it does not lead. It is important to note that during periods of extreme interest rate volatility, especially when the trend is toward higher rates, lender-borrower negotiated rates would make for a more efficient market and enhance the supply of credit to veteran borrowers.

During calendar year 1986, the VA guaranteed 351,242 loans, which is the highest since 1979; almost 74 percent of the loans were made without a downpayment from the veteran purchaser. These no downpayment loans had an average purchase price and loan amount of \$66,104. For those veterans who obtained loans with a downpayment, the purchase price averaged \$92,056 with an average loan amount of \$80,494. Veterans obtained 5,307 manufactured home loans in calendar year 1986. The average purchase price for manufactured homes was \$22,659, with an average loan amount of \$22,255. Since the Loan Guaranty program was enacted in 1944, mortgage credit totaling over \$272 billion has been allocated to veterans. Much of

these funds would not have been made available without the benefit of this GI Bill program. Over \$103 billion worth of these loans have been repaid in full as of last year.

Mr. Chairman, we are continuing to experience a large number of GI loan defaults. During calendar year 1986, defaults averaged 15,066 per month, compared with 14,513 in calendar year 1985. Defaults reported appear to be remaining stable at relatively high levels.

As a result of the continued high level of defaults reported, there were 133,333 defaults pending as of December 31, 1986, an increase of 11.4 percent over the 119,717 defaults pending as of December 31, 1985. This, in turn, resulted in an increased number of foreclosures and claims. We paid 29,430 claims in calendar year 1985. This increased 18.1 percent, to 34,750 claims paid in calendar year 1986.

Mr. Chairman, you requested information on actions being taken to minimize property acquisition costs. VA has taken steps to cut the high claim costs caused by undue delay in foreclosures. The Notice of Default and Notice of Intention to Foreclose have been combined in a single format to facilitate prompt action by lenders in terminating insoluble defaults. In addition, a procedure has been implemented to ensure that seriously

delinquent loans which are not in foreclosure are reviewed and a date established to limit accrual of interest and additional charges if there is no supportable basis for extension of continued forbearance.

In an effort to reduce foreclosures, VA directed lenders to improve delinquent loan servicing. Lenders are now required to give the borrower written notice within 20 days after an installment is due and unpaid and follow up with an attempt at personal telephone contact. Current procedures also require that if no repayment arrangements can be made, the lender must attempt a face-to-face interview with the borrower before beginning foreclosure. The procedures are consistent with servicing standards set for conventional loans.

We would like to take this opportunity to comment on three areas of the property acquisition process which were mentioned by the Government Accounting Office (GAO) in testimony before the House of Representatives Housing and Memorial Affairs Subcommittee on May 13, 1987, as having potential for savings:

Obtain more voluntary deeds. It has been a longstanding VA policy to encourage lenders to pursue a voluntary conveyance when there is no reasonable alternative to loan termination and provided it is legally feasible and

in the best interest of the Government to do so. However, a voluntary conveyance will normally not be acceptable if the property is subject to liens in addition to the VA loan or the veteran appears to have the ability to reimburse the Government for the amount of any claim payment which VA will be required to make to the lender. VA acceptance of a voluntary conveyance of a property eliminates the veteran's responsibility for the debt, which would be inconsistent with the provisions of 38 USC 1816(a) and would make the GI loan benefit, in effect, an outright grant. We are exploring the GAO suggestion of accepting deeds when the veteran agrees to remain liable for the amount of claim paid.

Third Party Bidding. GAO proposes that VA reduce property acquisitions by encouraging third party bidders at foreclosure sales. They suggest more third parties would bid if VA lowered its determination of the net value of property. Presently, net value is determined by reducing the fair market value of the property by VA's estimated costs for acquisition, management and resale. This procedure is mandated by Public Law 98-369. We also note that, in our experience, most third party bidders at foreclosure

sales are speculators who are only interested in acquiring properties for substantially less than their fair market value. Lowering net value determinations to attract these third party bidders will greatly increase claims paid by VA, since we pay claims for the difference between the proceeds of the sale and the loan indebtedness. Increased claims will, in turn, create corresponding increases in veterans' debts to the Government.

Title insurance. We are looking into various methods for reducing title acquisition costs. In Texas, we have implemented a procedure which utilizes General Warranty Deeds in lieu of title insurance. We are also reviewing the proposal to accept title insurance policies which provide only partial coverage.

Mr. Chairman, I would now like to comment on VA's policies and practices with regard to forbearance. VA becomes personally involved with borrowers at an early stage of any delinquency and is often instrumental in assisting borrowers to avoid foreclosure and retain home ownership. We appreciate this opportunity to explain what steps are taken by VA to resolve loan delinquencies.

In a loan default case, the mortgage holder is responsible for contacting the borrower, determining the reason for the default, and making arrangements for repayment of the delinquency. If this cannot be accomplished by the time three installments are due and payable, the default must be reported to VA, together with the holder's explanation of the reason for the default and a summary of its servicing efforts. Upon receipt of such notice, VA takes an active role in working to protect the interests of the veteran borrower and the Government.

VA closely reviews the holder's servicing of the account and follows up by attempting to contact the borrower by letter, mailgram, telephone and/or personal visits to the property. Once contact has been established, based on the facts in the case, VA personnel may offer financial counseling and/or may intercede with the holder on behalf of the veteran in order to obtain forbearance or arrange a reasonable repayment schedule in appropriate cases. Also, VA is in contact with local agencies that provide assistance in finding jobs for borrowers, or aid with their daily subsistence needs or help in making direct mortgage payments. When appropriate, delinquent borrowers are referred to such agencies so that they may apply for benefits.

If no arrangements for reinstatement are made and if the holder files a Notice of Intention to Foreclose, VA requires that foreclosure procedures cannot be started for 30 days, during which period VA is afforded additional time to try to service the loan. Even after foreclosure has been initiated, supplemental servicing is continued in order to explore every possibility to assist the borrower.

Every case in which a holder has indicated it will not continue to extend forbearance is reviewed by our regional office personnel in order to consider refunding. In refunding cases, VA takes an assignment of the security instruments from the loan holder and the borrower is responsible for making payments to VA. The refunding review involves the evaluation of many factors, including the current reasonable value of the property, the amount of indebtedness, whether or not the veteran occupies the property, and the ability of the veteran to care for and maintain the property. In evaluating the veteran's income, we require that he or she presently have the ability to maintain the mortgage obligation or have the potential to resume regular payments within a reasonable time, and to ultimately repay the loan.

Our personalized approach to supplemental servicing of delinquent borrowers results in varying degrees of assistance

because the situation of each borrower is different. In addition, it is the loan holder which has primary responsibility to determine whether a repayment plan or continued forbearance is acceptable. We do not have the authority to require holders to grant forbearance.

Mr. Chairman, you also requested testimony on what could be done to reduce default rates on GI loans. We anticipate future defaults will be reduced by changes in our underwriting standards and procedures. We also plan to continue our program of supplemental servicing of delinquent GI loans in order to minimize the number which result in foreclosure. In addition, we are in the process of implementing a requirement that loan holders report all 90 day delinquencies and foreclosures to credit reporting agencies. Such reporting will provide incentive to borrowers to reinstate their loans before delinquencies become serious. It will also make it difficult for borrowers who are seriously delinquent to further over-extend themselves through new credit.

In the area of credit underwriting we recently revised our standards to provide, on a regional basis, guidelines for the minimum residual income needed to qualify for a loan. We also instituted the use of a debt-to-income ratio to assess the risk of a loan. Riskier loans require additional review and

justification if they are to be approved. While it is true that not all loan defaults and foreclosures can be related to underwriting (other factors include changing economic conditions and changes in health or marital status) a need for improvement in our standards was seen. The guidelines were intended to reduce the incidence of veterans being placed in homes which they could not afford.

Mr. Chairman, I am pleased to report that the VA has taken important actions to improve its appraisal system and is committed to continued efforts to ensure that the appraisal system is effective, viable and adequately protected from inappropriate appraisals and those who perform them. The VA is part of an interagency task force to look into the development of an appraiser certification and review system.

The VA was an integral member of the industry committee which convened over a three year period to develop a Uniform Residential Appraisal Report. We have adopted the newly developed form. The form is considered a positive step in the direction of standardization of appraisal reporting, which should improve appraisal quality. In addition, the VA has updated its definition of "market value" which serves to guide appraisers when assessing the value of a property. This update is consistent with appraisal definitions used by the

Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC) and the major real estate appraisal organizations. That definition directs appraisers to determine "the most probable price which a property should bring, or for which the appraised property should sell, in a competitive market, under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus."

Mr. Chairman, I am sure the committee would also be interested in hearing of our current efforts in the area of Property Management. One provision of the Deficit Reduction Act of 1984, is the requirement that at least 25 percent of our properties be sold for cash during fiscal years 1985, 1986 and 1987. During fiscal year 1985, 27.5 percent of our total sales were for cash and during fiscal year 1986, we were able to increase this to 33.8 percent. Cash sales for fiscal year 1987 to date (through May) are 33.35 percent. Although cash sales are somewhat more difficult to make than term sales (vendee loans), once a property is sold for cash VA is no longer liable for future costs associated with delinquent loan servicing and foreclosure. These can be significant costs given that VA repurchases about 15 percent of all vendee loans sold.

After a significant inventory reduction in fiscal year 1985, the nationwide property inventory experienced a net increase of nearly 2,000 properties in fiscal year 1986. Property sales remained at nearly the same high level in fiscal year 1986 (only 2 percent below the fiscal year 1985 mark) but property acquisitions increased almost 18 percent over fiscal year 1985 acquisitions.

The lack of an overall, substantial reduction in inventory during fiscal year 1986 can give an inaccurate impression that our nationwide sales effort has been sluggish. In fact, our property sales problems are now principally located in the "energy belt." For example, if 3 regional offices (Denver, Muskogee and Houston) had just been able to "stay even" by selling the same number of properties that they acquired during fiscal year 1986, the sales results at the remaining 46 regional offices would have given VA a net inventory reduction of 3,677 properties. Today's inventory of properties on hand would be 17,010 instead of 20,687. Of the 29,972 properties acquired in fiscal year 1986, 26 percent were acquired by these 3 regional offices, with 17 percent of the total acquired by the Houston office alone. These 3 stations now account for nearly one-third (29 percent) of VA's on-hand inventory.

These are hard-hit real estate markets, with record levels of foreclosures and properties available for sale. Many potential buyers are reluctant to buy properties, particularly if substantial cash outlays are required, for fear that real estate values have not yet bottomed out. Under these conditions, we cannot pretend to have found effective marketing strategies which others in similar circumstances have not found. In an effort to overcome these adverse market conditions in the Houston area, our regional office is working closely with an advisory council of private sector real estate brokers. Substantial price reductions are being made, and more public advertising is being done. More timely service is being provided for purchase offer processing and sales closings. The amount of brokers' sales commissions has been increased from 5 to 6 percent. Additional personnel resources and contract money have been made available for property disposition operations. Auctions are being used to sell older properties. We have begun to see higher monthly property sales and purchase offers in the Houston office.

VA continues to acquire properties in these economically depressed areas because the level of loan terminations remains high. Foreclosures at our Houston, Waco, Denver and Muskogee

offices totaled 4,005 in the second quarter of fiscal year 1987, compared to 3,077 in the second quarter of fiscal year 1986. Among these liquidations, there are still numerous instances in which, after considering estimated property acquisition and disposition costs, the net value of the property indicates acquisition is in the best interest of the Government. However, the number of cases in which VA did not acquire a foreclosed property increased significantly from 401 (13.03 percent of liquidations) to 1,002 (25.02 percent of liquidations) at these offices between the second quarter of fiscal year 1986 and the second quarter of fiscal year 1987.

We project a gradual decline in property inventory over the next few fiscal years. Our regional offices have been successful in selling properties (over 56,000 in the last two years) and in reducing the average time properties are held (from 10.6 months in fiscal year 1985, to 8.8 months in fiscal year 1986, to 8.2 months in fiscal year 1987 to date). If the fiscal year to date sales velocity continues for the remainder of the fiscal year, we expect to sell between 32,596 and 32,733 properties. The highest number of properties ever sold by VA was 32,712 during fiscal year 1965. The problem continues to be that the level of new acquisitions has been significantly higher than anticipated, especially in areas most affected by the severe economic downturn in the energy industry.

Our efforts to dispose of inventory properties will continue to be based on timely pricing revisions, increased public advertising, and more effective cooperation with real estate professional groups in local areas. In addition, we will be using public real estate auctions as a supplemental sales technique, where appropriate, to dispose of those properties in inventory for the longest periods of time. The agency's inventory reduction goals have been included in the performance standards of our regional office directors.

Mr. Chairman, in addition to the areas I have just commented on, we would like to offer our comments on the proposal to require the underwriting of VA loans which are assumed and the concurrent release from liability of the original veteran owner and payment of a one-half of one percent fee by the assumer. Persons assuming VA guaranteed loans are receiving the advantage of favorable terms associated with VA guaranteed financing. It appears equitable that assumers should pay charges similar to those imposed on veterans. As to requiring underwriting of assumed loans similar proposals have been considered before and we continue to study them. Our initial review brings up both pros and cons. The need for underwriting could increase the cost of the sale as we have

noted with regard to lender fees on HUD loans. The need to underwrite would also increase the time taken to consummate the sale. Also, in a number of cases, veterans who would otherwise default on a loan are able to avoid default by virtue of a sale with the purchaser assuming the loan. On the other hand, a review of the credit worthiness of a person assuming a VA loan should reduce the possibilities of the loan being assumed by an unqualified purchaser, and would decrease the possibility of default and foreclosure. Such a requirement would also make the VA program more consistent with the requirements of HUD's program.

Some proposals tie the release of liability to the underwriting. We would prefer that the release of liability be an option of the Administrator rather than automatically granted. There may be some cases where the original veteran purchaser is in imminent danger of foreclosure which might be avoided through the sale of the property to a buyer who is a marginal credit risk. In these cases, it would be in the best interest of the Government to allow the sale to proceed in an attempt to save the loan but, because of the marginal quality of the buyer, to retain the right to collect from the original veteran if foreclosure is ultimately necessary.

Mr. Chairman, you requested that VA discuss several proposals currently pending before this Committee which pertain to veterans housing benefits.

The first measure is S. 9 the "Service-Disabled Veterans' Benefits Improvement Act of 1987." As you requested, Mr. Chairman, I will confine my remarks to the two provisions in that bill relating to housing loans.

Section 6 of S. 9 would increase the VA-loan guaranty from \$27,500 to \$36,000. We believe that an increase in the guaranty is not necessary at this time. The average VA loan amount in FY 1986 was \$70,912. The present law provides a 38.78 percent guaranty on the average loan, which is well in excess of the 25 percent coverage required in the secondary market. Therefore, VA opposes increasing the guaranty amount.

The other provision, section 8 of S. 9, would exempt a number of VA programs from sequestration under the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, commonly known as the Gramm-Rudman-Hollings Act, including the Loan Guaranty Program. As the Administration is committed to reducing the federal deficit, we strongly oppose this exemption to the Gramm-Rudman-Hollings Act.

The second measure, Mr. Chairman, is S. 920, the "Veterans' Housing Amendments Act of 1987." This bill, which is an important part of the Administration's legislative program, would make a number of amendments to the Veterans Administration Loan Guaranty Program to reduce administrative regulation and enhance revenues.

Section 2 of S. 920 would repeal the authority of the Administrator to set the maximum interest rate which veterans may pay on VA guaranteed home loans. Under the bill the veteran buyer, the seller, and the lender can negotiate on whether the rate, and thus the monthly payment, can be lowered in exchange for a certain number of points, and, if it is, who will pay some or all of such points. Thus, Mr. Chairman, the transaction can be tailored to fit the needs and circumstances of the parties involved.

This proposal would advance the Administration's goal of reducing Federal regulation and permitting market forces to operate. It would also be consistent with Pub. L. 98-181, which repealed the authority of the Secretary of Housing and Urban Development to set interest rates.

Section 3 of S. 920 would increase the present VA loan fee from 1 to 2-1/2 percent, effective June 1, 1987, and make collection of the fee permanent. Presently, the fee is set to expire September 30, 1987.

Since 1978 the Loan Guaranty Revolving Fund has required over \$2.2 billion in additional funds through transfers or appropriations in order to remain solvent. As a result of higher costs associated with property acquisitions and claim payments, a \$100 million supplemental appropriation has been requested to fund these expenses, currently estimated to be \$3.1 billion in FY 1987. If the fee remains at 1 percent, we project that an appropriation of \$389.8 million will be needed in FY 1988. If, however, the 2-1/2 percent were enacted, an appropriation in FY 1988 would probably not be necessary.

Because of the higher than anticipated levels of claims this year, it is essential that our appropriation request for FY 1988 in absence of a fee increase, be enacted. We will likely carry a smaller unobligated balance into the new fiscal year and we may experience claims higher than currently projected. Furthermore, the current FY 1988 baseline estimate by the Congressional Budget Office of \$109 million in budget authority is based on low estimates of delinquencies and claims. It will not be sufficient to support the program through FY 1988.

Section 4 of S. 920 is a technical amendment to authorize direct appropriations to the Loan Guaranty Revolving Fund. Although enactment of the loan fee increase proposed in section 3 of S. 920 should virtually eliminate the need for further appropriations, such action may nonetheless be necessary in the future. The two-step appropriation procedure currently in the law, i.e., appropriation to the readjustment benefits account, then transfer of the funds into the revolving fund, is unnecessarily complicated and tends to obscure the real financial requirements of operating the program.

Section 5 of S. 920, Mr. Chairman, would repeal certain requirements of the VA manufactured home loan program that VA believes to be no longer necessary. This section would delete the requirement that VA standards for manufactured home sites encourage that such sites be free from adverse scenic or environmental conditions. VA's standards only serve to duplicate existing State and local requirements and complicate the application process.

This section would also repeal the requirement that VA inspect the manufacturing process of manufactured homes and conduct on-site inspections of such units purchased with VA financing. The bill would further provide that any manufactured home that displays a certificate of conformity with Federal manufactured home standards would be eligible for purchase with VA guaranteed loans.

VA believes that the comprehensive scheme established under the National Manufactured Housing Construction and Safety Standards Act of 1974 is sufficient to insure that new manufactured homes purchased by veterans will be properly built and suitable for occupancy and use. VA inspections are therefore unnecessary.

In addition, S. 920 proposed one technical amendment. Engaging in actions unfair or prejudicial to veterans or the Government would be added as a basis for suspending a manufacturer of manufactured homes from participation in the VA program. Provisions of the law applicable to suspending other loan guaranty program participants authorize suspension for such prejudicial practices. We believe this technical correction is desirable.

Section 6 of S. 920 would repeal the requirement for a statement of local officials regarding the feasibility of public or community water and sewerage systems as a condition to the VA guaranty of loans for the purchase of newly constructed homes.

Other Federal, State, and local laws adequately address this subject. These certification requirements place an additional burden on local officials and program participants without materially benefiting the veteran.

Section 7 of S. 920 would specifically authorize the Administrator of Veterans' Affairs to establish an appraisal system whereby appraisal reports completed by VA designated fee appraisers would be received and reviewed by approved lenders without VA staff involvement. This system would be similar to the HUD direct endorsement program which has been in operation since 1983. This system would provide more timely service to veterans and would allow field stations to more effectively perform program surveillance activities in view of current staffing constraints.

Section 8(a) of S. 920 would eliminate the October 1, 1987, sunset for the claim payment and acquired properties provisions in subsections (c) and (d) of section 1816 of title 38, United States Code.

Under 38 U.S.C. section 1816(d), VA must sell at least 60 percent, but not more than 75 percent of acquired property with vendee financing. S. 920 would also reduce these limits so that VA must sell at least 40 percent, but not more than 60 percent of acquired properties with vendee financing.

Subsections (c) and (d) were enacted in 1984 to (1) reduce the Government's losses on foreclosure of VA guaranteed loans and the subsequent resale of VA acquired properties; (2) enable the VA to convert loan and property assets into liquid assets for the Loan Guaranty Revolving Fund; and (3) insure that the VA home loan program would continue to provide a viable benefit for veterans and lenders. Experience has shown that these procedures have worked well. The basic framework created is sound and should be continued to reduce VA's future contingent liability on vendee loans.

Accordingly, Mr. Chairman, VA urges enactment of S. 920.

Mr. Chairman, you also requested comments on proposed legislation to amend title 38 U.S.C. chapter 37 to limit refinancing loan amounts. It appears there are funds available in the private sector for refinancing loans. This raises the question of whether there is a need for VA to be guaranteeing this type of loan. Rather than commenting on a legislative

change at this time we would prefer to study the situation and report to the Congress at a later date. As we understand this proposal it would have no impact on the ability of a veteran to secure a loan solely for the purpose of reducing the rate on an existing VA loan.

The final measure I will discuss, Mr. Chairman, is House Concurrent Resolution 79, passed by the House on April 27, 1987, expressing the sense of the Congress that the VA loan fee not be increased above the current 1 percent. As I testified with regard to S. 920, Mr. Chairman, the increasing costs of the Loan Guaranty program and the depletion of the Revolving Fund make increasing the fee to 2-1/2 percent necessary. This additional fee, if financed, would increase the average monthly mortgage payment by less than \$10, yet it would obviate the need for over \$1.5 billion in appropriations over Fiscal Years 1988 to 1992. The increased fee, while making the program solvent, will not impact the primary benefit of the program, which is the no-down payment feature. Accordingly, VA strongly opposes enactment of House Concurrent Resolution 79.

Mr. Chairman, you also invited comments on possible improvements as to the type and availability of financial counseling

available to veterans at the time of loan application. Presently, VA conducts a home counseling service in 23 cities to provide prospective home buying veterans advice and assistance in practical aspects of home buying and homeownership. Minority veterans comprised 8,930 of the 15,929 veterans counseled in FY 1986, reflecting the thrust of the program toward aiding minority veterans. Since the inception of the program in 1973, over 79,000 minority veterans and 141,000 veterans overall have been assisted by this home counseling service. In addition to this formal counseling program, we also provide information, which can include financial counseling, to both veterans obtaining VA loans and those holding VA loans on an as requested basis. In light of current budgetary and personnel constraints, and considering VA's role as a guarantor of loans, rather than a lender, we do not believe expansion of VA's financial counseling program for loan applicants would be appropriate at this time.

In appropriate cases delinquent borrowers are offered financial counseling by VA Loan Service representatives as part of our supplemental servicing effort. Financial counseling by VA entails a complete analysis of the borrowers' financial situation, including review of total household income, assets, expenses and liabilities, and a determination of the borrowers' net worth. This analysis is followed by the preparation of a proposed budget which should enable the borrowers to meet their financial obligations and avoid the loss of their home.

There has also been a proposal to permit veterans who have been transferred and no longer occupy the home to obtain interest rate reduction refinancing loans. There was a similar proposal during the last session of Congress, S.2475, on which we commented unfavorably due to the non-occupancy by the veteran and our concern over creating an investment program rather than one aiding homeownership. After further study we realize that this proposal would benefit veterans, such as active duty military, foreign service personnel, and other veterans whose jobs require periodic transfer. These veterans may continue to own a former residence to which they plan to return at some future time, e.g. after they retire. We therefore would not object to this proposal, if it was limited to one-time use for active duty foreign service and military personnel who certify that they intend to reoccupy the property in the future. We note that H.R. 1452, on which you requested comments, would not limit this special refinancing provision to a one time use.

Mr. Chairman, there were also two Budgetary items that you wished us to comment on. They are the sale of portfolio loans without repurchase agreements and the sale of \$900 million of VA's loan portfolio over a three-year period.

The fiscal year 1988 budget submission contains a provision for the sale of vendee loans without recourse (repurchase agreement). As you know, vendee loans experience foreclosure rates three times that of guaranteed loans and four times that of conventional loans. Because VA sells these loans with recourse the VA frequently must repurchase, foreclose, and resell the property securing these loans. At this time, substantial servicing costs and property losses are incurred. We would prefer to sell the loans without recourse if we can obtain a reasonable market price in order to obviate future losses.

VA participated in a Government-wide pilot program during FY 87 for the sale of loan assets without recourse. Loans with a total principal balance of \$84 million were offered through a sealed bid auction procedure on April 14, 1987. The sale was advertised in the Wall Street Journal and publicized in trade journals. This was preceded by discussions with mortgage bankers and investment brokers concerning the nature of the product and marketing procedures, and by preparation of an information package describing the loans offered and past portfolio performance. There was considerable interest generated in the offering; however, the actual bidding was light. Prices ranged from 15 to 67 percent of par value and no bids were accepted.

There are several factors which negatively affected the sale. Interest rate volatility almost certainly reduced investor interest. Mortgage rates increased well over 1 percentage point during the weeks before and after the sale. Investors are typically unwilling to commit funds for long term investments during such periods. This is particularly true for new products, such as vendee loans sold without recourse. The interest rate differential alone on loans to be sold versus the market rate accounts for a large discount in loans being sold. This was evident in our sale on May 19, 1987, of vendee loans sold with recourse.

In response to the results of this attempted sale, for FY 1988, VA is exploring alternative marketing procedures for selling new vendee loans without recourse, including the procurement of the services of a Financial Advisor to assist in structuring and marketing the loans offered for sale.

Our entire loan portfolio is scheduled for sale without recourse in the amount of \$300 million over each of the next three fiscal years. Anticipated proceeds are \$210 million for each year. Marketing procedures developed for the sale of new vendee loans (with the assistance of a Financial Advisor) should also be applicable to these loans.

The financing needs of the program are such that \$630 million in cash over the next three years would significantly bolster the Revolving Fund. However, the cash flow from these poor quality loans is uncertain and could vary considerably in the future because nearly 2/3 of the loans slated for sale are in a state of chronic delinquency. Because these loans are expensive to service and repayments are irregular, we believe the sale of these loans without recourse is in the best interest of the Government.

Mr. Chairman, you also requested our comments on staffing and ADP equipment in VA regional offices. Although the home loan program has been experiencing heavier workloads due to lower interest rates, we have been able to effectively manage the program without any significant increase in employment. We have accomplished this through the use of overtime and contract funds, increased computer modernization of work processes, and emphasis on automatic loan processing. We believe we can continue to provide timely and quality service to veteran homebuyers with the resources available to us.

For FY 1987, VA is authorizing the purchase of ADP equipment to be utilized in selected Loan Guaranty Divisions across the country. Primarily the equipment will be used in the Property Management area, as an electronic bulletin board which lists

properties available for sale, and as a property inventory tracking system. Enhancing our automation efforts will help to reduce backlogs and lead to greater efficiency in program operations.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or any member of the committee may have.

There are several factors which negatively affected the sale. Interest rate volatility almost certainly reduced investor interest. Mortgage rates increased well over 1 percentage point during the weeks before and after the sale. Investors are typically unwilling to commit funds for long term investments during such periods. This is particularly true for new products, such as vendee loans sold without recourse. The interest rate differential alone on loans to be sold versus the market rate accounts for a large discount in loans being sold. This was evident in our sale on May 19, 1987, of vendee loans sold with recourse.

In response to the results of this attempted sale, for FY 88, VA is exploring alternative marketing procedures for selling new vendee loans without recourse, including the procurement of the services of a Financial Advisor to assist in structuring and marketing the loans offered for sale.

Our entire loan portfolio is scheduled for sale without recourse in the amount of \$300 million over each of the next three fiscal years. Anticipated proceeds are \$210 million for each year. Marketing procedures developed for the sale of new vendee loans (with the assistance of a Financial Advisor) should also be applicable to these loans.

CHANGES IN EXISTING LAW MADE BY S. 1801 AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

PART I—GENERAL PROVISIONS

CHAPTER 1—GENERAL

§ 113. Treatment of certain programs under sequestration procedures

(a) The following programs shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) Benefits under chapter 21 of this title, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities.

(2) Benefits under section 907 of this title, relating to burial benefits for veterans who die as the result of a service-connected disability.

(3) Benefits under chapter 39 of this title, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

(4) Assistance and services under chapter 31 of this title, relating to training and rehabilitation for certain veterans with service-connected disabilities (but only with respect to fiscal year 1987).

(5) Benefits under chapter 35 of this title, relating to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (but only with respect to fiscal year 1987).

(6) *Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans.*

[(e) If a final order issued by the President pursuant to a law providing for the cancellation of loan guarantee commitments imposes a limitation on the total amount of loans that may be guaranteed under chapter 37 of this title in any fiscal year, the Administrator shall submit to the Committees on Veterans' Affairs of the

Senate and the House of Representatives a monthly report (not later than the 10th day of each month during the remainder of such fiscal year following the issuance of such final order) providing the following information:

[(1) The total amount of the loans for which commitments of guarantees were made under such chapter during the preceding month.

[(2) The total amount of the loans for which commitments were made during the fiscal year through the end of such preceding month.

[(3) The Administrator's estimates as to the total amounts of the loans for which commitments would, in the absence of any limits on such commitments or guarantees, be made during (A) the month in which the report is required to be submitted, and (B) the succeeding months of the fiscal year.]

[(f)] (e) This section applies without regard to any other provision of law (whether enacted before, on, or after the date of the enactment of this section) unless such Act expressly provides that it is enacted as a limitation to this section.

[(g)] (f) For the purposes of this section:

(1) The term "sequestration" means a reduction in spending authority and loan guarantee commitments generally throughout the Government under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law.

(2) The term "sequestration law" means a law enacted with respect to a sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law (under the procedures specified in that Act or otherwise).

(3) The term "sequestration order" means an order of the President issued under part C of such Act.

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

* * * * *

SUBCHAPTER I—GENERAL

* * * * *

§ 1802. Basic entitlement

(a) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World War II, the Korean conflict, or the Vietnam era, for a service-connected disability, shall be eligible for the housing loan

benefits of this chapter. In the case of any veteran who served on active duty during two or more of the periods specified in the preceding sentence, or in section 1818 of this title, for which eligibility for the housing loan benefits under this chapter may be granted, entitlement derived from service during the most recent such period (1) shall cancel any unused entitlement derived from service during any earlier such period, and (2) shall be reduced by the amount by which entitlement from service during any earlier such period has been used to obtain a direct, guaranteed, or insured housing loan—

(A) on real property which the veteran owns at the time of application; or

(B) as to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Administrator the resulting indebtedness of the veteran to the United States (*as such indebtedness may have been reduced under section 1816(g)(1) of this title*) has been paid in full.

* * * * *

§ 1804. Restrictions on loans

(a) * * *

* * * * *

(f) Any loan for the purchase or construction of residential property to be financed through the assistance of this chapter shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to section 1817(c) of this title.

* * * * *

SUBCHAPTER II—LOANS

§ 1810. Purchase or construction of homes

(a) * * *

* * * * *

(b) No loan may be guaranteed under this section or made under section 1811 of this title unless—

(1) the proceeds of such loan will be used to pay for the property purchased, constructed, or improved;

(2) the contemplated terms of payment required in any mortgage to be given in part payment of the purchase price or the construction cost bear a proper relation to the veteran's present and anticipated income and expenses;

(3) the veteran is a satisfactory credit risk, as determined in accordance with the credit underwriting standards established pursuant to subsection (g) of this section;

(4) the nature and condition of the property is such as to be suitable for dwelling purposes;

(5) the loan to be paid by the veteran for such property or for the cost of construction, repairs, or alterations, does not exceed

the reasonable value thereof as determined [by the Administrator;] *pursuant to section 1831 of this title; and,*

(6) if the loan is for repair, alteration, or improvement of property, such repair, alteration, or improvement substantially protects or improves the basic livability or utility of such property.

[After the reasonable value of any property, construction, repairs, or alterations is determined under paragraph (5), the Administrator shall, as soon as possible thereafter, notify the veteran concerned of such determination.]

(c) The amount of guaranty entitlement available to a veteran under this section shall not be more than [\\$27,500] *\\$36,000* less such entitlement as may have been used previously under this section and other sections of this chapter.

* * * * *

(e)(1) For a loan to be guaranteed for the purpose specified in subsection (a)(8) of this section—

(A) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(B) the loan must be secured by the same dwelling or farm residence as was the loan being [refinanced and such dwelling or residence must be owned and occupied by the veteran as such veteran's home;] *refinanced;*

(C) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(D) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

[(E) the term of the loan may not exceed the original term of the loan being refinanced.]

(E) the veteran must own the dwelling or farm residence securing the loan and—

(i) must occupy such dwelling or residence as such veteran's home; or

(ii) must have previously occupied such dwelling or residence as such veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied such dwelling or residence.

* * * * *

(g)(1) * * *

* * * * *

(3) In the regulations prescribed under paragraph (2) of this subsection, the Administrator shall establish standards that include—

(A) debt-to-income ratios to apply in the case of the veteran applying for the loan;

(B) criteria for evaluating the reliability and stability of the income of the veteran applying for the loan; and

(C) procedures for ascertaining the monthly income required by the veteran to meet the anticipated loan payment terms.

Where the procedures described in clause (C) of this paragraph include standards for evaluating residual income, those standards shall be based on State statistics pertaining to residual income and cost of living in the State in question rather than in a larger region if the Administrator finds that there are reliable such data available for a particular State.

* * * * *

(h) The amount of a loan guaranteed for the purpose specified in subsection (a)(5) may not exceed the amount equal to 90 percent of the appraised value of the dwelling or farm residence which will secure the loan, as determined by the Administrator.

§ 1811. Direct loans to veterans

(a) * * *

* * * * *

(d)(1) * * *

* * * * *

(2)(A) Except for any loan made under this chapter for the purposes described in section 1819 of this title, the original principal amount of any loan made under this section shall not exceed an amount which bears the same ratio to \$33,000 as the amount of guaranty to which the veteran is entitled under section 1810 of this title at the time the loan is made bears to ~~[\$27,500;]~~ \$36,000; and the guaranty entitlement of any veteran who heretofore or hereafter has been granted a loan under this section shall be charged with an amount which bears the same ratio to ~~[\$27,500]~~ \$36,000 as the amount of the loan bears to \$33,000.

* * * * *

§ 1816. Procedure on default

(a)(1) * * *

* * * * *

(4)(A) Within a reasonable time after receiving a notice pursuant to paragraph (1) of this subsection, the Administrator shall—

(i) provide the veteran with information and, to the extent feasible, counseling regarding—

(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Administrator by means of a deed in lieu of foreclosure, and the actions authorized by section 1816(a)(2) of this title; and

(II) what the Veterans' Administration's and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

(ii) advise the veteran regarding the availability of such counseling.

(B) The Administrator, subject to the availability of appropriations and funds made available pursuant to section 1824(e) of this title, shall take such steps as are necessary to ensure that sufficient

personnel are available for the effective implementation of this paragraph.

* * * * *

(c)(1) For purposes of this subsection—

(A) The term “defaulted loan” means a loan that is guaranteed under this chapter, that was made for a purpose described in section 1810(a) of this title, and that is in default.

(B) The term “liquidation sale” means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

(C) The term “net value”, with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Administrator estimates the Administrator would incur (if the Administrator were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale, and other costs resulting from the acquisition and disposition of the property.

(D) The term “total indebtedness”, with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date [of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection),] *applicable under paragraph (10) of this subsection*, and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by [such regulations]) *regulations prescribed by the Administrator to implement this subsection*) associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

* * * * *

(10)(A) Except as provided in subparagraph (B) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan.

(B)(i)(I) Except as provided in subdivision (II) of this division, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forbearance at the request of the Administrator, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forbearance was requested and prior to the date of such sale, as the Administrator specifies pursuant to regulations prescribed by the Administrator to implement this subsection.

(II) The Administrator may specify a date under subdivision (I) of this division only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Administrator is authorized, under paragraph (7)(A) of this subsection, to accept conveyance of the property.

(ii) In any case, other than a case described in division (i) of this subparagraph, in which there is a delay in such sale beyond a reasonable period of time for such sale to occur, the date referred to in

paragraph (1)(D)(ii) of this subsection shall be such earlier date on or after the date on which such period expires as the Administrator may specify pursuant to such regulations.

(11) This subsection shall cease to have effect on October 1, 1988.

(d)(1) Of the number of purchases made during any fiscal year of real property acquired by the Administrator as the result of a default on a loan guaranteed under this chapter for a purpose described in section 1810(a) of this title, not more than [75] 60 percent, nor less than [60] 40 percent, of such purchases may be financed by a loan made by the Administrator. The maximum percentage stated in the preceding sentence may be increased to [80] 70 percent for any fiscal year if the Administrator determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

* * * * *

(4) The amount of a loan made by the Administrator to finance the purchase of real property from the Administrator described in paragraph (1) of this subsection may not exceed an amount equal to 90 percent of the purchase price of such real property.

(5) This subsection shall cease to have effect on October 1, 1990.

* * * * *

(g)(1) Except as provided in paragraph (2) of this subsection, if, in the case of a loan which was guaranteed, insured, or made under this chapter and is in default, the Administrator refuses to accept from the veteran who is obligated under the loan a timely and voluntary offer to convey the property securing the loan to the Administrator by means of a deed in lieu of foreclosure and without release from such veterans' liability to the United States in connection with such loan, the Administrator may not include in the amount of such veterans' liability in connection with the loan the cost of a foreclosure proceeding.

(2) For the purposes of subsection (c) of this section a veteran's voluntary conveyance shall be deemed a liquidation sale, and paragraph (1) of this subsection shall not apply in any case in which the Administrator would not be permitted under such subsection to accept conveyance of the property.

(3) Notwithstanding any provision of other law, a veteran's voluntary conveyance of the property securing a loan guaranteed, insured, or made under this chapter by means of a deed in lieu of foreclosure to the Administrator or to the holder of the loan shall, at the written request of the veteran to the Administrator, not release such veteran from any liability to the Administrator.

§ 1817. Release from liability under guaranty

(a) * * *

* * * * *

(c)(1) No guaranteed, insured, or direct housing loan obtained by a veteran under this chapter may be assumed unless, prior to the veteran's disposing of the property securing such loan and the assumption of the loan, the veteran notifies the holder of the loan in writing of the proposed assumption and the acceptability of the assumption is established under paragraph (2) (A) or (B) of this subsection.

(2) The acceptability of the assumption shall be considered to be established if—

(A) upon application made by the veteran and the transferee, the criteria under clauses (1) and (2) of subsection (a) of this section are determined by the Administrator to be satisfied, or

(B)(i) the veteran has elected, after full disclosure by the Administrator or the holder to the veteran regarding the veteran's rights and liabilities, to be made jointly and severally liable with the transferee, and

(ii) the transferee is obligated by contract to purchase the property securing such loan and to assume joint and several liability with the veteran for the repayment of the balance of the loan remaining unpaid and for all of the obligations of the veteran under the terms of the instruments creating and securing the loan.

(d) If the acceptability of an assumption is established under subsection (c)(2)(A) of this section, the veteran shall be relieved of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or of any subsequent purchaser of such property) unless the Administrator determines that such release would not be in the interest of the solvency or stability of the Loan Guaranty Revolving Fund and so notifies the veteran promptly.

(e) If, pursuant to subsection (c)(2)(B) of this section, a veteran becomes jointly and severally liable with an assumptor of a loan, the veteran shall, at the end of the 5-year period beginning on the date of the sale, be relieved of all further liability to the Administrator on account of the loan (including liability for any loss resulting from any default of the transferee or of any subsequent purchaser of such property) unless, as of the last day of such period, suit or foreclosure has been initiated and not dismissed or withdrawn.

(f) In the case of a sale of the property securing a guaranteed, insured, or direct housing loan obtained by a veteran under this chapter, unless the acceptability of an assumption is established under subsection (c)(2) of this section, payment in full of the principal, interest, and all other amounts owing under the terms of the loan shall upon demand of the holder be immediately due and payable to the holder at any time beginning on the date of transfer of title by the veteran.

(g) The Administrator, or an approved lender described in section 1802 of this title in the case of such lender, shall, upon notification by the veteran pursuant to subsection (c)(1) of this section, provide to the veteran a written explanation, in such form as the Administrator shall specify, of the veteran's rights and liabilities, including the veteran's right to elect one of the alternatives described in subsection (c)(2) (A) or (B) of this section.

(h) If a veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter and the veteran fails to notify the holder of the loan before the property is disposed of, payment in full of the principal, interest, and all other amounts owing under the terms of the loan shall upon demand of the holder be immediately due and payable to the holder at any time beginning on the date of the transfer of title by the veteran.

(i)(1) In any case in which the holder of a loan described in subsection (c)(1) of this section has knowledge of a veteran's transfer of title of residential property securing such loan, the holder shall immediately notify the Administrator of such transfer.

(2) If a holder with such knowledge fails to so notify the Administrator, the holder shall be liable to the Administrator for any damage, as determined by the Administrator at the time at which the Administrator is required to make payments in accordance with any guaranty, insurance, or recourse provided with respect to the loan concerned, sustained by the United States as a result of such failure.

(j) The Administrator shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a veteran with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Administrator shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least $2\frac{1}{2}$ times larger than the regular type on such page: "THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE VETERANS' ADMINISTRATION OR ITS AUTHORIZED AGENT."

* * * * *

§ 1819. Loans to purchase manufactured homes and lots

(a)(1) * * *

* * * * *

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(ii) the loan must be secured by the same manufactured home or manufactured-home lot, or manufactured home and manufactured-home lot, as was the loan being [refinanced and such manufactured home (or a manufactured home on such lot) must be owned and occupied by the veteran as such veteran's home;] *refinanced*;

(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

(v) the term of the loan may not exceed the original term of the loan being [refinanced.] *refinanced*;

(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan; or

(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied the home (or such a home on the lot).

* * * * *

(e) No loan shall be guaranteed under this section unless—

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, as determined in accordance with the regulations prescribed under section 1810(g) of this title and taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the manufactured home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of *the lesser of the amount equal to 95 percent of the purchase price of the property which shall secure such loan or the amount determined to be reasonable, based upon—*

(A) with respect to any portion of the loan to purchase a new manufactured home, such cost factors as the Administrator considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used manufactured home, the reasonable value of the property, as determined by the Administrator;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator;

(5) the veteran certifies, in such form as the Administrator shall prescribe, that the veteran will personally occupy the property as the veteran's home;

(6) the manufactured home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator.

* * * * *

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

* * * * *

§ 1824. Loan guaranty revolving fund

(a) * * *

* * * * *

(e)(1) Notwithstanding subsection (b) of this section, the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts, may contract for the performance of such supplementary services described in paragraph (2) of this subsection and may acquire such supplementary equipment described in such paragraph (not including services or equipment for which the Fund is available under subsection (b) of this section) as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1987, or services in excess of the level of such services performed during fiscal year 1987, and may include, among other things, the services of—

(A) appraisers to review appraisal reports and issue certificates of reasonable value;

(B) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

(C) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

(D) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter;

(E) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certificates;

(F) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter; and

(G) contractors to prepare closing documents and review them after closing.

(3) The Administrator shall have available for each fiscal year after fiscal year 1987 for the purposes of this subsection \$2 million, plus such funds, not exceeding \$13 million in any fiscal year, as are obtained by requiring payment of, pursuant to section 1829(d) of this title, a fee by buyers who assume loans guaranteed, insured, or made under this chapter and, pursuant to section 1829(a) of this title, such fee amounts greater than 1 percent paid by persons obtaining loans to finance the purchase of real property from the Administrator.

§ 1829. Loan fee

(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and from each person obtaining a loan from the Administrator to finance the purchase of

real property from the Administrator, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Administrator. The amount of the fee shall be one percent of the total loan [amount.] *amount, except that, in the case of a loan made by the Administrator to finance the purchase of real property from the Administrator, the amount of the fee shall be 2.5 percent of the total loan amount.* The amount of the fee may be included in the loan and paid from the proceeds thereof.

* * * * *

(c) A fee may not be collected under this section with respect to any loan closed after September 30, [1987.] 1989.

(d) *Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan in connection with a disposition of residential property referred to in section 1817 of this title. The amount of the fee shall be equal to one-half percent of the balance of such loan on the date of the transfer of the property.*

(e) *The Administrator shall establish in regulations—*

(1) a reasonable amount as the maximum amount that a lender may charge for processing an application for—

(A) a creditworthiness determination and assumption of a loan pursuant to subsection (c)(2)(A) of section 1817 of this title, which amount shall not exceed \$500; and

(B) an assumption of a loan pursuant to subsection (c)(2)(B) of such section 1817, which amount shall include only reimbursement for expenses incurred by the lender in such processing and shall not exceed \$50; and

(2) requirements for the timely processing of applications for acceptance of assumptions.

* * * * *

§ 1831. Appraisals

(a) * * *

* * * * *

(c) [The Administrator shall, upon request,] *Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall furnish a copy of the appraisal made of property for the purposes of this chapter to the lender proposing to make the loan which is to be secured by such property and is to be guaranteed under this chapter.*

(d) *If a lender (other than a lender described in subsection (f) of this section)—*

(1) has proposed to make a loan to be guaranteed under this chapter,

(2) has been furnished a certificate of reasonable value of any property or of any construction, repairs, or alterations of property which is to be the security for such loan, and

(3) within a reasonable period prescribed by the Administrator, has furnished to the Administrator an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the lender from the list required by subsection (a)(3) of this section, the Administrator shall consider both the initial appraisal and the additional appraisal and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

* * * * *

(f)(1) Subject to the provisions of paragraph (2) of this subsection, the Administrator may, in accordance with standards and procedures established in regulations prescribed by the Administrator, authorize a lender which is authorized to make loans which are automatically guaranteed under section 1802(d) of this title to determine the reasonable value of property for the purposes of this chapter. In such a case, the appraiser selected by the Administrator pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Administrator.

(2) Prior to the Administrator exercising the authority provided in paragraph (1) of this subsection, the Administrator shall establish an appraisal-review system to monitor on at least a random-sampling basis the making of appraisals by appraisers and the determination of reasonable value of property by lenders. Such monitoring shall be performed by contract personnel paid for from the Loan Guaranty Revolving Fund as provided for in section 1824(e) of this title.

§ 1832. Furnishing information to real estate professionals to facilitate the disposition of properties

(a) The Administrator shall furnish to real estate brokers and other real estate sales professionals information on the availability of real property for disposition under this chapter and the procedures used by the Veterans' Administration to dispose of such property.

(b) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter, the Administrator shall list all such property with real estate brokers under such arrangements as the Administrator determines to be most appropriate and cost effective.

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DEFICIT REDUCTION ACT OF 1984

(Public Law 98-369, July 18, 1984)

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DIVISION B—SPENDING REDUCTION ACT OF 1984

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TITLE V—VETERANS' PROGRAMS

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PART B—ACTIONS TO INCREASE RECEIPTS AND REDUCE
COSTS UNDER THE VETERANS' ADMINISTRATION HOME-
LOAN GUARANTY PROGRAM

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ACTIONS TO REDUCE COSTS UNDER HOME-LOAN PROGRAM

SEC. 2512. (a) * * *

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(c)(1) * * *

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[(2) Subsections (c) and (d) of section 1816 of title 38, United States Code (as added by subsection (a) of this section), shall cease to have effect on October 1, 1987.]

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